Agenda

Environmental Protection Commission

October 19, 1998
10:00 AM
Wallace State Office Building, Fourth Floor Conference Room

Public Participation **10:30 A.M.**

Agenda topics

1.	Approve Agenda	
2.	Approve Minutes of September 21, 1998	
3.	Director's Report	Larry Wilson (Information)
4.	FY 98 Final Fiscal Report	Stan Kuhn (Information)
5.	Waste Tire Management County Grant Program Contracts	Roya Stanley **(Decision)**
6.	Final Rule--Chapter 219, Beneficial Uses of Waste Tires	Roya Stanley **(Decision)**
7.	Monthly Reports	Allan Stokes (Information)
8.	Notice of Intended Action--Chapter 65, Animal Feeding Operations Rules	Allan Stokes **(Decision)**
9.	Intended Use Plan - Wastewater SRFRevision - Hardship Grants	Allan Stokes **(Decision)**
10.	Final Rule--Chapter 22, 23, and 25, Hospital, Medical & Infectious Waste Incinerators, and Municipal Waste Combustor Standards	Allan Stokes **(Decision)**
11.	Final Rule--Chapter 137, Brownfields Rules Iowa Land Recycling Program and Responsibility Action Standards	Allan Stokes **(Decision)**
12.	5 Year Strategic Plan - Operator Certification Program	Allan Stokes **(Decision)**
13.	General Discussion	
14.	Address Items for Next Month	

Next Meeting Dates
November 16, 1998
December 21, 1998
January 19, 1999 (Tuesday)

ENVIRONMENTAL PROTECTION COMMISSION

Monday, October 19, 1998

NAME	COMPANY OR AGENCY	CITY
(PLEASE PRINT)		
JANE McALLISTER	AHLERS LAW FIRM	DES MOINES
Cathy Woolums	MidAmerican Energy	Davenport
DANNY VEST	GROWMARK, INC.	BLOOMINGTON, IL.
Mark Huston	City of Col. Jct	Columbus Jct
Betty Roudybush	Louisa County	Wapello, IA.
WAYNE KAISER	EPA Region III	KANSAS City, KS
CHRIS GAULT	FARM BUREAU	WDSM
Lindsey Larson	Farm Bureau	Jefferson Co.
Perry Beeman	DM Register	DM
Rick Kelley	UHL	DM
Eldon McAfee	Bevins Law - IPRA	DSM
[illegible]	IPA	Jeffers
Mel Pins	IDNR	D.M.
[illegible]	Sierra Club	DM
Deb Kozel	LFB	DM
Norm Mohlenhoff	Iowa Dairy Prod Assn	Ankeny
Jeff Schwell	IPRA	DM

MINUTES

OF THE

ENVIRONMENTAL PROTECTION COMMISSION

MEETING

OCTOBER 19, 1998

WALLACE STATE OFFICE BUILDING
DES MOINES, IOWA

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MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairman Ehm at 10:00 a.m. on Monday, October 19, 1998, in the Wallace State Office Building, Des Moines, Iowa.

MEMBERS PRESENT

William Ehm, Chair
Randal Giannetto (arrived at 11:15 a.m.)
Rozanne King
Dean McWilliams
Charlotte Mohr, Secretary
Kathryn Murphy
Terrance Townsend, Vice-Chair
Rita Venner

MEMBERS ABSENT

Gary Priebe (working in field today)

ADOPTION OF AGENDA

Motion was made by Charlotte Mohr to approve the agenda as presented. Seconded by Terrance Townsend. Motion carried unanimously.

APPROVED AS PRESENTED

APPROVAL OF MINUTES

Motion was made by Rozanne King to approve the meeting minutes of September 21, 1998, as presented. Seconded by Terrance Townsend. Motion carried unanimously.

APPROVED AS PRESENTED

DIRECTOR'S REPORT

Larry Wilson, Director, reported that Sharon Timmins would be sitting for Roya Stanley and make the presentations for Waste Management Assistance Division. He noted that

Randal Giannetto had a court hearing at 9:00 a.m. and would be late to the meeting. Also, Gary Priebe called to say he would be working in the field today.

FINANCIAL STATUS REPORT - YTD DIVISION EXPENDITURES

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

A fiscal schedule showing the final cost center, bureau and division level expenditures as compared to the FY98 budget will be presented. The report, itself, will be completed during the second week in October and provided separately. The format will be similar to monthly reports provided to each commission during the year.

DNR operating divisions completed FY98 with $458,897 remaining from the total division operations appropriation of $14,826,001. Much of this reversion was due to Park and Forestry related receipts exceeding budgeted income by $284,000. It was necessary to transfer a net of $53,477 from the Administration division to the Environmental Protection division to cover costs of Confined Feedlot management.

The Fish and Wildlife division completed the year $286,220 under the total authorized operating budget of $20,470,331.

This schedule (provided separately) is useful in assessing budget management at the cost center and program levels within each bureau and division.

Commissioners may also wish to reference the summary of FY98 income and expenditures included in the Budget Request Summary provided at the September meetings as part of the item relating to approval of the FY00/01 budget request.

FY98 Expenditure Report (Final)
August 31, 1998

Division Summary	FY98 A/BDGT	FY98 Actual	Variance Under(Ovr)	Variance % Under (Ovr)
Director's Office/Info & Ed.	2,055,176	1,903,785	151,391	7.37%
Administrative Services Div.	5,804,715	5,590,432	214,283	3.69%
Parks, Rec. & Preserves Div.	9,541,529	9,591,489	(49,960)	(.52%)
Forests & Forestry Division	2,851,497	2,861,695	(10,198)	(.36%)
Energy & Geological Resources Div.	4,569,218	3,751,456	817,762	17.90%
EPD Division	20,358,815	17,657,216	2,701,599	13.27%
Fish & Wildlife Division	20,863,640	20,519,096	344,544	1.65%
Waste Management Assistance Div.	1,781,227	1,524,107	257,120	14.43%
	67,825,817	63,399,276	4,426,541	6.53%

This report presents actual DNR operational expenditures for FY98 at the division, bureau and cost center levels as compared to the FY98 budget. The report's format is similar to that used to present monthly status reports to the commissions. Similar information, including related receipts, capitals and special programs, was presented to both commissions at the October 1998 meetings in support of the FY00 and FY01 budget request.

The net General Fund reversion from operating appropriations, all divisions, is $458,897. This revision, larger than expected, resulted from both Park and Forestry receipts being significantly higher than anticipated. The Fish and Wildlife division completed the year $286,220 under the authorized appropriation.

Director's Office
Information & Education

Budget Unit	FY98 A/BDGT	FY98 Actual	Variance Under(Ovr)	Variance % Under (Ovr)
Director's Office & Commissions	306,371	324,358	(17,987)	(5.87%)
Permit Compliance Team	191,045	150,082	40,963	21.44%
REAP Program	39,500	43,583	(4,083)	(10.34%)
Policy Coordination	55,555	24,350	31,205	56.17%
Total Director's Office	592,471	542,373	50,098	8.46%
Information & Education Bureau				
I&E General Operations	435,044	468,958	(33,914)	(7.8%)
Conservationist Magazine	397,352	314,335	83,017	20.89%
Education Center Programs	192,924	177,629	15,295	7.93%
Aquatic Education	278,537	274,745	3,792	1.36%
Fish and Wildlife Information	15,458	23,300	(7,842)	(50.73%)
Energy Information	72,674	44,341	28,333	38.99%
Groundwater Education	23,044	3,800	19,244	83.51%
319 Planning Information	39,672	12,755	26,917	67.85%
Air Quality Title 5 Information	0	31,898	(31,898)	N/A
Education Workshops	8,000	4,442	3,558	44.48%
Outdoor Learning	0	5,143	(5,143)	N/A
Project Wild Expansion	0	0	0	N/A
Hooked on Fishing	0	66	(66)	N/A
Total I & E Bureau	1,462,705	1,361,412	101,293	6.93%
Total Director's Office/Info & Ed.	2,055,176	1,903,785	151,391	7.37%

Administratives Services

Budget Unit	FY98 A/BDGT	FY98 Actual	Variance Under(Ovr)	Variance % Under (Ovr)
Budgets and Grants Bureau	354,057	214,428	139,629	39.44%
State Central Services & Indirect	121,458	96,865	24,593	20.25%
Accounting Bureau	876,116	936,314	(60,198)	(6.87%)
Administrative Services Bureau	1,499,918	1,395,968	103,950	6.93%
Central Data Processing Bureau	888,091	874,571	13,520	1.52%
Licensing Bureau	355,157	379,463	(24,306)	(6.84%)
Construction Services Bureau	1,048,384	1,013,715	34,669	3.31%
CSB-Park Road Design	55,212	87,484	(32,272)	(58.45%)
Land Acquisition & Mngt Bureau	494,170	486,363	7,807	1.58%
Division Mngt & Misc.	112,152	105,261	6,891	6.14%
Total Administrative Services Div.	5,804,715	5,590,432	214,283	3.69%

Parks, Recreation and Preserves Division

Budget Unit	FY98 A/BDGT	FY98 Actual	Variance Under(Ovr)	Variance % Under (Ovr)
Parks Field Management	218,405	266,795	(48,390)	(22.16%)
NW District Parks Operations	2,087,404	2,091,991	(4,587)	(.22%)
NE District Parks Operations	1,940,435	1,921,644	18,791	0.97%
SE District Parks Operations	2,223,025	2,211,805	11,220	0.50%
SW District Parks Operations	2,010,125	2,015,040	(4,915)	(.24%)

Parks & Preserves Programs & Mngt	672,777	703,158	(30,381)	(4.52%)
Endangered Species Grants	11,259	6,000	5,259	46.71%
Preserves Grants	19,311	8,000	11,311	58.57%
DED Parks Grants	27,167	35,868	(8,701)	(32.03%)
Trail Development Grants	44,850	39,852	4,998	11.14%
Cedar Rock	138,098	146,968	(8,870)	(6.42%)
Division Management & Misc.	118,673	136,440	(17,767)	(14.97%)
SRF Loan Repayment	30,000	7,928	22,072	73.57%
Total Parks, Rec. & Preserves Div.	9,541,529	9,591,489	(49,960)	(.52%)

Forests & Forestry Division

Budget Unit	FY98 A/BDGT	FY98 Actual	Variance Under(Ovr)	Variance % Under (Ovr)
Forest Nursery Production	530,071	562,259	(32,188)	(6.07%)
Forest Nursery Services	96,444	94,367	2,077	2.15%
Shimek Forest	235,266	217,374	17,892	7.61%
Stephens Forest	190,023	179,317	10,706	5.63%
Yellow River Forest	245,229	235,513	9,716	3.96%
Loess Hills Forest	161,082	171,520	(10,438)	(6.48%)
Nursery & Forests Management	142,954	144,754	(1,800)	(1.26%)
Farm Forestry Services	801,161	765,351	35,810	4.47%
Trees For Kids Video	0	11,642	(11,642)	N/A
Trees For Kids Project	30,000	34,974	(4,974)	(16.58%)
Forestry Services Management	301,841	331,063	(29,222)	(9.68%)
Division Management	117,426	113,561	3,865	3.29%
Total Forests & Forestry Division	2,851,497	2,861,695	(10,198)	(.36%)

Energy & Geological Resources Division

Budget Unit	FY98 A/BDGT	FY98 Actual	Variance Under(Ovr)	Variance % Under (Ovr)
Energy Bureau:				
Biomass	89,807	81,741	8,066	8.98%
SIFIC A	88,791	49,169	39,622	44.62%
SIFIC B	67,296	66,309	987	1.47%
SIFIC Innovation Project	101,250	73,460	27,790	27.45%
State Energy Program	648,766	537,322	111,444	17.18%
Soya Diesel	46,369	22,456	23,913	51.57%
Building Code, Energy	10,000	3,000	7,000	70.00%
Heating Oil & Propane Program	18,944	14,426	4,518	23.85%
Energy Advancement	27,119	45,566	(18,447)	(68.02%)
Greenhouse Gas	23,402	0	23,402	100.00%
Greenhouse Gas #3	5,000	0	5,000	100.00%
Federal Energy Bank	74,419	69,339	5,080	6.83%
Energy/Education Study	50,000	28,363	21,637	43.27%
Ethanol Seminar, Council of Gov's.	21,891	21,877	14	0.06%
Oil Overcharge - 3 Admin	297,839	198,502	99,337	33.35%
EPA Risk Assessment Project	61,859	25,053	36,806	59.50%
Rebuild Iowa	155,129	141,632	13,497	8.70%
Federal Energy Mngt Program	50,000	31,194	18,806	37.61%
Commercial Wind Energy	60,000	38,003	21,997	36.66%
Wind Assessment	4,072	1,343	2,729	67.02%
SEP Climate Wise	50,000	23,000	27,000	54.00%
Ethanol Market Research	92,970	53,280	39,690	42.69%
Total Energy Bureau	2,044,923	1,548,473	496,450	24.28%
Geology Bureau:				
Camp Dodge Wetland	11,450	3,297	8,153	71.21%
Camp Dodge Mapping	15,000	18,044	(3,044)	(20.29%)
Floyd Cty ADW Project	23,272	12,663	10,609	45.59%

Geology/Mineral Resources	371,462	369,792	1,670	0.45%
Digital Mapping	100,403	100,132	271	0.27%
Wright Cty Monitoring	27,683	0	27,683	100.00%
Hydrology/Environment	488,206	465,206	23,000	4.71%
State Mapping	22,973	31,342	(8,369)	(36.43%)
Pesticide Mngt Project	41,464	28,442	13,022	31.41%
Geology Information	238,673	232,408	6,265	2.62%
Big Springs Project	12,269	29,179	(16,910)	(137.83%)
Geographical Info System	221,247	134,610	86,637	39.16%
319 Planning - 91	42,465	24,092	18,373	43.27%
319 Planning - 93	115,546	124,557	(9,011)	(7.8%)
Walnut Creek Restoration	210,490	109,055	101,435	48.19%
Wellhead Protection, EPA	86,811	52,139	34,672	39.94%
USGS Coop. Agreement	156,154	155,492	662	0.42%
Geology Bureau Mngt	239,667	216,821	22,846	9.53%
Total Geology Bureau	2,425,235	2,107,271	317,964	13.11%
Energy & Geological Div Mngt	99,060	95,712	3,348	3.38%
Total Energy & Geological Resources Division	4,569,218	3,751,456	817,762	17.90%

Environmental Protection Division

Budget Units	FY98 A/BDGT	FY98 Actual	Variance Under(Ovr)	Variance % Under (Ovr)
Water Quality Bureau:				
Wastewater (NPDES) Mngt	700,467	698,887	1,580	0.23%
Storm Water Permitting	216,986	196,068	20,918	9.64%
Livestock Permits (C. Office)	226,667	334,331	(107,664)	(47.5%)
State Revolving Grant Mngt	402,537	253,525	149,012	37.02%
GW County Grants Mngt	59,210	60,555	(1,345)	(2.27%)
Water Monitoring Workshop	2,900	1,812	1,088	37.52%
Streamflow Statistics Report	0	12,745	(12,745)	N/A
GIS Locational Data	0	3,135	(3,135)	N/A
604B Water Planning	162,264	177,522	(15,258)	(9.4%)
Floodplain Regulation & Mngt	309,073	358,733	(49,660)	(16.07%)
319 Water Planning-91	55,000	25,109	29,891	54.35%
319 Water Planning-92	100,000	94,707	5,293	5.29%
319 Water Planning-93	175,000	115,336	59,664	34.09%
319 Water Planning-94	270,000	301,466	(31,466)	(11.65%)
319 Water Planning-95	540,064	417,223	122,841	22.75%
319 Water Planning-96	451,201	483,501	(32,300)	(7.16%)
319 Water Planning-97	110,000	180,379	(70,379)	(63.98%)
Water Supply Regulation	1,334,817	967,609	367,208	27.51%
Water Rights Administration	131,410	137,682	(6,272)	(4.77%)
Operator Certification Support	98,589	42,109	56,480	57.29%
Well Contractor Permits	42,310	38,063	4,247	10.04%
Water Supply-93 Flood	50,000	12,000	38,000	76.00%
Lab Certification	156,500	156,659	(159)	(.1%)
Stream Watershed Assessment	30,750	38,309	(7,559)	(24.58%)
Total Water Quality	5,625,745	5,107,465	518,280	9.21%
Air Quality Bureau:				
Air Quality Regulation & Planning	1,868,931	1,989,969	(121,038)	(6.48%)
Air PM 2.5 Monitoring	0	107,407	(107,407)	N/A
Title V, Permitting, Enforcement	4,729,996	3,471,625	1,258,371	26.60%
Total Air Quality Bureau	6,598,927	5,569,001	1,029,926	15.61%
Land Quality Bureau:				
Waste Management	634,806	520,591	114,215	17.99%
Solid Waste Authorization	61,983	52,304	9,679	15.62%
GW Professional Registration	60,993	23,466	37,527	61.53%
UST	315,756	225,783	89,973	28.49%
LUST Cleanup	786,139	562,038	224,101	28.51%
Hazardous Waste Sitting	208,428	58,061	150,367	72.14%

Remedial Activity	70,221	24,087	46,134	65.70%
AIDEX Monitoring	6,600	37	6,563	99.44%
Superfund Program Management	174,045	176,203	(2,158)	(1.24%)
Multisite, Investigation & Assess.	55,553	125,501	(69,948)	(125.91%)
General Motors Site Mngt	49,834	30,228	19,606	39.34%
Waste Tire Permitting	1,000	1,507	(507)	(50.7%)
Emergency Response	210,899	183,286	27,613	13.09%
BrownFields Task Force	25,000	1,271	23,729	94.92%
BrownFields Development	228,208	97,586	130,622	57.24%
LUST Flood Support	100,000	0	100,000	100.00%
Total Land Quality Bureau	2,989,465	2,081,949	907,516	30.36%
Legal & Compliance Bureau:				
LUST Cleanup	529,073	540,509	(11,436)	(2.16%)
Air Quality-Field Const. & Mngt	163,792	135,901	27,891	17.03%
Air Quality-Field Title 5	474,201	402,937	71,264	15.03%
Wastewater-Field	1,456,572	1,405,022	51,550	3.54%
Water Supply-Field	646,810	646,629	181	0.03%
Waste Mngt-Groundwater	709,167	634,634	74,533	10.51%
Water Supply Technical Asst.	203,347	160,186	43,161	21.23%
Livestock-Field	315,200	314,278	922	0.29%
Legal/Compliance Mngt	451,493	435,135	16,358	3.62%
Total Legal & Compliance Bureau:	4,949,655	4,675,231	274,424	5.54%
EPD Division Mngt & Misc	195,023	223,570	(28,547)	(14.64%)
Totals, EPD Division	20,358,815	17,657,216	2,701,599	13.27%

Fish and Wildlife Division

Budget Units	FY98 A/BDGT	FY98 Actual	Variance Under(Ovr)	Variance % Under (Ovr)
Law Enforcement:				
NW Enforcement District	890,300	891,938	(1,638)	(.18%)
NW Enf. Boating Safety	24,632	28,697	(4,065)	(16.5%)
NE Enforcement District	1,115,566	1,121,055	(5,489)	(.49%)
NE Enf. Boating Safety	16,500	13,482	3,018	18.29%
SW Enforcement District	811,636	822,886	(11,250)	(1.39%)
SW Enf. Boating Safety	36,800	23,800	13,000	35.33%
SE Enforcement District	1,039,535	1,014,567	24,968	2.40%
SE Enf. Boating Safety	18,500	12,440	6,060	32.76%
NC Enforcement District	862,167	884,194	(22,027)	(2.55%)
NC Enf. Boating Safety	27,001	17,662	9,339	34.59%
SC Enforcement District	972,510	782,195	190,315	19.57%
SC Enf. Boating Safety	27,370	241,243	(213,873)	(781.41%)
Hunter Safety	358,749	410,608	(51,859)	(14.46%)
Boating Safety	358,858	279,974	78,884	21.98%
Snowmobile Safety	66,742	83,780	(17,038)	(25.53%)
Big Creek Range Maint.	7,000	7,064	(64)	(.91%)
Cons. Law Bureau Mngt	348,401	223,941	124,460	35.72%
Total Law Enforcement	6,982,267	6,859,526	122,741	1.76%
Fisheries:				
Hatcheries:				
Big Springs Fish Hatchery	224,012	218,264	5,748	2.57%
Decorah Fish Hatchery	259,025	260,875	(1,850)	(.71%)
Fairport Fish Hatchery	161,636	155,124	6,512	4.03%
Manchester Fish Hatchery	259,334	256,660	2,674	1.03%
Rathbun Fish Hatchery	508,707	492,310	16,397	3.22%
Spirit Lake Fish Hatchery	373,893	361,034	12,859	3.44%
Total Hatcheries	1,786,607	1,744,267	42,340	2.37%
Fisheries Management:				
NW District	624,889	612,701	12,188	1.95%
NE District	646,835	659,233	(12,398)	(1.92%)

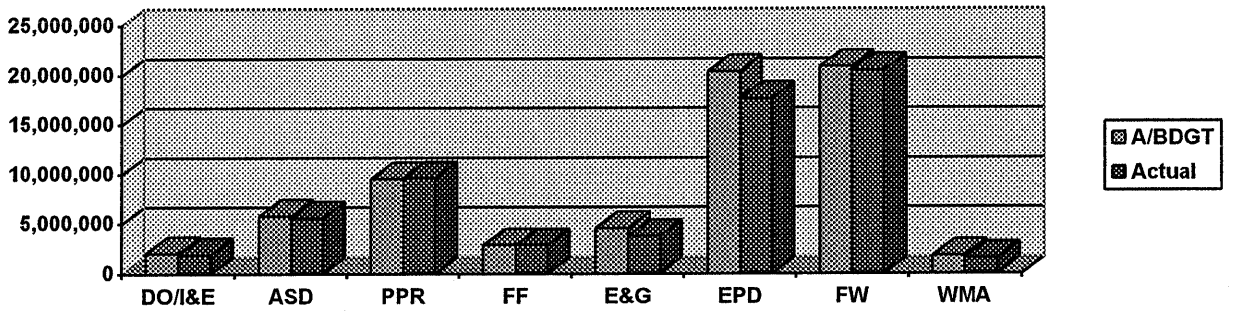
SW District	500,525	502,013	(1,488)	(.3%)
SE District	547,152	528,977	18,175	3.32%
Total Fisheries Management	2,319,401	2,302,924	16,477	0.71%
Fisheries Research:				
Mississippi Monitoring	340,224	328,018	12,206	3.59%
Aquatic Education Project	98,576	151,318	(52,742)	(53.5%)
Milfoil Project	100,454	75,159	25,295	25.18%
Bellevue Fisheries Research	176,243	176,869	(626)	(.36%)
Chariton Fisheries Research	261,182	277,517	(16,335)	(6.25%)
Cold Springs Fisheries Research	125,568	137,688	(12,120)	(9.65%)
Bozeman Project	5,000	0	5,000	100.00%
Manchester Fisheries Research	128,448	126,578	1,870	1.46%
Fish Production Drug Study	20,000	20,000	0	0.00%
Rathbun Fisheries Research	167,375	154,394	12,981	7.76%
Spirit Lake Fisheries Research	138,252	144,384	(6,132)	(4.44%)
MARIS Study	10,000	0	10,000	100.00%
Total Fisheries Research	1,571,322	1,591,925	(20,603)	(1.31%)
Fisheries Bureau Mngt	522,887	461,215	61,672	11.79%
Total Fisheries Bureau	6,200,217	6,100,331	99,886	1.61%
Wildlife Bureau:				
Wildlife Area Maint. & Mngt:				
NW District Operations	1,073,625	1,096,763	(23,138)	(2.16%)
NE District Operations	981,479	1,009,561	(28,082)	(2.86%)
SW District Operations	1,022,862	1,026,006	(3,144)	(.31%)
SE District Operations	1,206,422	1,200,085	6,337	0.53%
Wetlands Project Support	31,872	15,317	16,555	51.94%
Wildlife Area Maint. & Mngt	4,316,260	4,347,732	(31,472)	(.73%)
Corps WMA Areas, Cond. 5:				
Saylorville Cond 5 WMA	35,444	44,719	(9,275)	(26.17%)
DM River Cond 5 WMA	12,500	18,788	(6,288)	(50.3%)
Missouri River Cond 5 WMA	4,000	0	4,000	100.00%
Red Rock Cond 5 WMA	161,115	107,526	53,589	33.26%
Coralville Cond 5 WMA	49,344	39,799	9,545	19.34%
Riverton Cond 5 WMA	0	1,500	(1,500)	N/A
Rathbun Cond 5 WMA	28,994	39,030	(10,036)	(34.61%)
Total Corps WMA Mngt	291,397	251,362	40,035	13.74%
Total WMA Maint. & Mngt	4,607,657	4,599,094	8,563	0.19%
Wildlife Research:				
Boone Research, State	189,912	132,208	57,704	30.38%
Boone Research, Federal	130,043	107,845	22,198	17.07%
Chariton Research, State	75,943	56,451	19,492	25.67%
Chariton Research, Federal	152,566	131,166	21,400	14.03%
Clear Lake Research, Federal	139,840	169,898	(30,058)	(21.49%)
Clear Lake Research, State	81,749	115,378	(33,629)	(41.14%)
Wildlife Diversity Project	249,505	226,346	23,159	9.28%
Harvest Information Program Grant	0	12,018	(12,018)	N/A
Total Wildlife Research	1,019,558	951,310	68,248	6.69%
Wildlife Depredation Mngt	172,466	137,672	34,794	20.17%
Wildlife Bureau Mngt & Misc	1,405,378	1,441,247	(35,869)	(2.55%)
Total Wildlife Bureau	7,205,059	7,129,323	75,736	1.05%
FW Division Mngt & Misc	476,097	429,916	46,181	9.70%
Total FW Division	20,863,640	20,519,096	344,544	1.65%

Waste Management Assistance Division

Budget Units	FY98 A/BDGT	FY98 Actual	Variance Under(Ovr)	Variance % Under (Ovr)
Buy Recycled Business Alliance	1,500	1,500	0	0.00%
Planning & Grants	225,863	197,986	27,877	12.34%
Landfill Alternatives	159,941	135,231	24,710	15.45%

Waste Tires Program	50,188	44,427	5,761	11.48%
Waste Recycling	252,386	277,330	(24,944)	(9.88%)
Household Hazardous Waste Adm	345,299	225,297	120,002	34.75%
Waste Reduction Assistance	141,870	122,153	19,717	13.90%
Pollution Prevention (WRAP)	294,192	180,557	113,635	38.63%
Waste Reduction Program	30,653	23,182	7,471	24.37%
Solid Waste Reduction Grant	0	15,124	(15,124)	N/A
Substainable Conference	35,000	24,000	11,000	31.43%
WMA Division Mngt	244,335	277,320	(32,985)	(13.5%)
Waste Mngt Assistance Totals	1,781,227	1,524,107	257,120	14.43%

FY98 Division Level Expenditure, Budget and Actual



Mr. Kuhn reviewed the final fiscal report for each division.

Rozanne King asked about the transfer of funds from Administration Division to Environmental Protection Division for confined feedlot management.

Mr. Kuhn explained that one of the challenges in dealing with the budget is how frequently one adjusts the budget. He related that it could be adjusted every time the budget is over in one area and under in another, but as a practical matter staff try to do that for large items in the middle of the year and then live with it at the end of the year rather than make a formal adjustment.

Commissioner King asked if that happens a lot and how it affects the request for funding.

Mr. Kuhn explained that the state's process focuses on the general fund and expanded on areas where flexibility is possible.

INFORMATIONAL ONLY

WASTE TIRE MANAGEMENT COUNTY GRANT PROGRAM CONTRACTS

Sharon Timmins, Bureau Chief, Waste Management Assistance Division, presented the following item.

Commission Approval Requested

The Department reviewed applications for fiscal year 1999 funds currently available through Chapter 215, "Waste Tire Management County Grant Program." $1,100,000 is recommended for award to 87 counties.

A listing of the county agencies recommended for grant awards was provided as an information item to the Commission in July, 1998. At that time the Commission approved contracts for four of the twelve (12) recommended county awards in excess of $25,000. The remaining awards of $25,000 or more are recommended to the Commission for approval.

Grant Program Purpose

The program's purpose is to promote the proper management of waste tires at the community level, to protect the environment and the public from the risks posed by improperly managed waste tires.

Counties may use the grants in the following ways:

- Implementing local public education programs on proper tire disposal (how to and why it's important)
- Hosting free waste tire "amnesty" collection events.

Procedural Note

Administrative rules require the Department to review expenditure reports of grantees from the previous grant period before issuing additional funds. These procedures allow the Department to account for any funds that the counties did not spend in the prior year. The Department has reduced the fiscal year 1999 awards by the amount of the balance remaining. The resulting funding is equal to the original award recommendation for this fiscal year.

Implementation Schedule

Funded activities cannot begin before the effective date of the contract, and must be completed on or before June 30, 1999. The Department will not reimburse costs incurred before the beginning date or after the ending date of the contract.

Program Budgets

The recipients have provided the Department with a budget summary of proposed expenditures. Grant expenditures in any one category cannot exceed 10% of the amount budgeted in each category. Amounts exceeding 10% require a contract amendment. Approval is required by the Department director, the administrator of the Waste Management Assistance Division, and the authorized officer of the recipient.

Table: Applicants and Amount Requested

APPLICANT	COUNTY REPRESENTED	RECOMMENDED AWARD	FY98 BALANCE	CONTRACT AMOUNT
Council Bluffs Health Department	Pottawattamie, Mills	$30,000	$4,085	**$25,915**
East Central Iowa Council of Governments	Benton, Iowa, Tama, Johnson, Jones, Linn	$100,000	$ - 0 -	**$100,000**
Metro Waste Authority	Polk	$50,000	$2,749	**$47,251**
North Iowa Area Council of Governments	Cerro Gordo, Floyd, Franklin, Hancock, Kossuth, Mitchell,	$95,000	$ - 0 -	**$95,000**
South Central Iowa Solid Waste Agency	Lucas, Marion, Monroe, Poweshiek	$42,500	$7,605	**$34,895**
Scott County Board of Supervisors	Scott	$ 40,000	$ - 0 -	**$40,000**
West Central Iowa Solid Waste Management	Audubon, Carroll, Crawford, Ida, Shelby	$ 75,000	$ - 0 -	**$75,000**

The Commission is requested to approve contracts for the recipients listed above.

The scope of work for each contract is attached for review.

(A copy of the Scope of Work for each contract is on file in the department's Records Center)

Ms. Timmins explained the program and presented details of each contract.

Dean McWilliams asked if the amnesty day will have a restriction on the number of tires.

Ms. Timmins replied that it is up to each county to make the judgment call on how many tires can actually be brought in. Brief discussion followed regarding subsidy funds by the county.

Motion was made by Charlotte Mohr to approve the Waste Tire Management County Grant Contracts as presented. Seconded by Rozanne King. Motion carried unanimously.

APPROVED AS PRESENTED

FINAL RULE--CHAPTER 219, BENEFICIAL USES OF WASTE TIRES

Sharon Timmins, Bureau Chief, Waste Management Assistance Division, presented the following item.

The Department requests that the Commission approve the attached rules as final. These rules are intended to implement 1996 Iowa Acts, House File 2433.

This new chapter establishes guidelines for the use of whole or processed waste tires for:

- erosion control

- drainage structures
- civil engineering applications
- other beneficial uses.

Uses of waste tires approved through this chapter shall not pose a threat to the environment, or to public health, welfare, and safety. Notice Of Intended Action was published in the IAB on August 12, 1998 as ARC 8238A. The Department held a public hearing on September 2, 1998 at the Wallace Building for the purpose of receiving written and verbal comments on the proposed rule. No comments were received.

The Department made minor revisions to the Notice of Intended Action. As requested by the Commission, the revisions include a requirement for the department to review any requests for other beneficial use designations not specifically addressed within the rule within 30 days of receipt. A correction was also made to identify the Natural Resources Conservation Service as an agency that may supervise beneficial use projects.

ENVIRONMENTAL PROTECTION COMMISSION [567]
Adopted and Filed

Pursuant to the authority of 1996 Iowa Acts, House File 2433, section 9., the Environmental Protection Commission hereby adopts Chapter 219, "Beneficial Uses of Waste Tires," Iowa Administrative Code.

This new chapter establishes guidelines for the use of whole or processed waste tires for erosion control, drainage structures, civil engineering applications, and other uses where the intended purpose is to produce a beneficial product or an end use. Beneficial uses of waste tires approved through this chapter shall not pose a threat to the environment, or to public health, welfare, and safety.

Notice of Intended Action was published in IAB on August 12, 1998 as ARC 8238A.

A public hearing was held on September 2, 1998. No written or oral comments were received.

The department has made minor revisions to the Notice of Intended Action. These revisions include a requirement for the department to conduct reviews of any requests for approval of other beneficial use designations not specifically addressed within the rule within 30 days of such submittals. A correction was also made to properly identify the Natural Resources Conservation Service as an appropriate agency that may also supervise beneficial use projects. These revisions are contained in rules 219.7 and 219.9.

These rules are intended to implement 1996 Iowa Acts, House File 2433.

These rules will become effective November 11, 1998

The following **new** chapter is adopted:

CHAPTER 219

BENEFICIAL USES OF WASTE TIRES

567--219.1(455D) Purpose. The purpose of this chapter is to establish guidelines for the use of whole or processed waste tires for erosion control, drainage structures, civil engineering applications, and other uses where the intended purpose is to produce a beneficial product or an end use.

567--219.2(455D) Definitions. As used in this chapter:

"Bagel cut" means to cut a tire in half along its circumference.

"Baled tire" means a method of compacting a waste tire whereby whole or cut tires are compressed into a bundle and then banded together. A tire bale shall be considered a solid waste.

"Beneficial use" means the use or application of a whole or processed waste tire in a manner that provides a benefit to an end user, other than from processing or recycling, and which does not pose a threat to the environment, or to public health and safety. Use of waste tires primarily as means for land disposal shall not be considered a beneficial use.

"Civil engineering applications" means a form of reusing waste tires, either whole or processed, in place of naturally occurring materials in construction, as long as the waste tires provide a defined engineering benefit.

"Crumb rubber" means a material derived by reducing waste tires or other rubber into uniform granules with the inherent reinforcing materials such as steel and fiber removed along with other contaminants.

"Cut waste tire" means a waste tire where the tire face, tread, or sidewall has been cut or removed, and these removed portions are to be beneficially reused. A cut tire shall consist of pieces greater than 18 inches on any one side.

"Department" means the Iowa department of natural resources.

"End user" means an entity that receives whole or processed tire material and uses it as a finished product, as raw material for a manufacturing process or other beneficial use.

"Energy recovery" means the extraction of the fuel or heat value from whole or processed tires through their combustion.

"Passenger tire equivalent" means the equivalent weight of one passenger car tire which will be 20 pounds for the purpose of estimating waste tire amounts from a total weight figure.

"Shredded tire" means a tire cut into pieces not greater than 18 inches in any one dimension.

"Site of end use" means a site where whole or processed waste tires are recycled or reused in a beneficial manner authorized by the department.

"Tire processor" means a person who reduces waste tires into a processed form suitable for recycling, producing fuel for energy or heat, or any other beneficial use as authorized by the department. "Tire processor" does not mean a person who retreads tires or processes and stores tires.

"Waste tire" means a tire that is no longer suitable for its originally intended purpose due to wear, damage, or defect. "Waste tire" does not include a nonpneumatic tire.

"Whole tire" means a waste tire that has not been processed or shredded in any manner, and which still retains the general shape and volume of a tire.

567--219.3(455D) Role of the department of natural resources. The department is responsible for the administration of the requirements of this chapter and will ensure that all approved uses of whole or processed waste tires do not pose a threat to the environment, or to public health, welfare, and safety. The department shall have the authority to determine if a proposed use of waste tires is beneficial and shall have the authority to approve or deny beneficial use applications if such a benefit is not evident.

567--219.4(455D) Waste tire products exempted. The following end uses of materials derived, processed, or recycled from waste tires shall be considered beneficial reuse under this chapter and shall not require an individual beneficial use designation from the department for their use at a specific site of end use.

1. Asphalt rubber, including asphalt cement modified with a crumb rubber modifier;
2. Buffing rubber, defined as high-quality tire rubber, which is a by-product from the conditioning of tire casings in preparation for retreading;
3. Carbon black derived from the thermal or oxidative decomposition of tires;
4. Crumb rubber material, including rubber granules used for soil amendments or surfacing materials;
5. Crumb rubber modifiers used in asphalt paving materials;
6. Tire-derived fuel (TDF), which is a fuel derived from waste tires, including whole tires, processed into pieces which satisfy the specifications of the end user for use as either a primary or supplemental fuel. Use of TDF will require modification of air source construction and operation permits if such use is not already recognized in the end user's permit.

567--219.5(455D) Beneficial uses for whole waste tires. This rule establishes acceptable beneficial uses for whole waste tires and required notifications and approvals that must be obtained from the department prior to placement of waste tires at the site of end use.

219.5(1) Beneficial uses. The following applications shall be considered acceptable beneficial uses for whole waste tires:

a. Tire swings, sandboxes, or other equipment for child play areas at schools, care centers, and recreational areas;

b. Dock bumpers at vehicle loading/unloading docks or marine docks;

c. Crash barriers at racetracks;

d. Agricultural uses to hold down covers over hay, silage, and other agricultural commodities. When not in use, the tires should be neatly stacked;

e. Structures for military and police training at facilities under ownership or management of local, state, or federal agencies;

f. Artificial fishing reefs and fish habitat structures constructed at facilities under ownership or management of a county conservation board, the department, or a federal agency;

g. Stream bank erosion control and culvert outlet tire mats, constructed as follows:

(1) Tires shall be placed in a single layer, with tires banded together with a noncorrosive strip;

(2) The tires shall all be drilled or punctured to allow for outflow of air to prevent floatation during submerged conditions;

(3) The banded mat shall be anchored with cable of at least 0.5 inches in diameter;

(4) The cables shall then be fastened to buried anchors made of treated timbers or concrete, at least every 50 feet along the top of the mat and intermittently in the middle;

(5) The mat should extend four to six feet out on the channel bottom;

(6) The outermost row on the channel bottom shall be filled with rocks or broken concrete;

(7) Vegetation shall be planted in and around the tire mat; rows within the tire mat that are too wet for vegetation establishment shall be filled with rocks or broken concrete; and

(8) Any variation from these design standards shall be acceptable only under the direction of an Iowa licensed professional engineer.

h. Construction of residential dwelling structures or other buildings for which a building permit has been obtained from local government officials;

i. Culvert piping made from waste tires with a rim diameter of 21 inches or greater and subject to the following design criteria:

(1) The maximum depth of water flows within the culvert shall be no greater than 75 percent of the piping diameter;

(2) Sand or similar aggregate material must be installed in the lower portions of the culvert piping to provide ballast and to limit mosquito infestations;

(3) The culvert must not be installed below the seasonal groundwater high elevation;

(4) The maximum depth of earthen or aggregate coverings over the culvert shall not exceed the outside diameter of the whole tires used in the culvert;

(5) Soils used for backfill around and above the culvert shall be compacted so as to provide a culvert deflection of less than 5 percent of the outside diameter; and

(6) Vertical sections of tire culvert piping shall be designed with safety measures to prevent unauthorized access or hazards to children and animals.

219.5(2) Required notifications and approval. Prior to the installation or placement of beneficial uses of whole waste tires as approved in subrule 219.5(1), the owner or operator of the site of end use shall properly notify or seek approval from the department's environmental protection division, solid waste section, for the proposed beneficial use under the following circumstances:

a. For applications of less than 250 whole waste tires, notification to the department shall not be required, subject to the end-user's compliance with all requirements of this chapter.

b. For applications of 250 to 500 whole waste tires, the department shall be notified in writing no less than 30 days prior to the construction or placement of waste tires for a beneficial use, with the following information provided:

(1) The name of the owner, operator, or individual to be responsible for the beneficial use application at the site of end use, including address and telephone number;

(2) The address of the beneficial site of end use;

(3) The estimated total number of tires to be used;

(4) A description of the beneficial use application;

(5) A project time line, including proposed project start and end dates; and

(6) A statement regarding how such waste tires shall be properly disposed of by the site owner in the event that the beneficial use is discontinued or dismantled.

c. For applications of 500 or more waste tires, approval by the department shall be obtained prior to any such applications. Approval requests shall be made to the department in writing and shall contain all information as requested in paragraph 219.5(2)"b," as well as a scaled plan of the site of end use with areas noted where whole waste tires are to be placed, including locations of the site of end use property lines and the location of any structures within 500 feet of the site of end use.

219.5(3) Prevention of public health risks. All beneficial uses of whole waste tires as approved in this rule shall incorporate into their design and construction measures to prevent the retention and stagnation of water, in the event that such conditions are likely to exist. These measures shall include, at a minimum, the piercing or drilling of holes in whole waste tires to allow for water drainage. Such measures shall be designed to minimize risks to public health and safety caused by the breeding of disease-carrying insects and rodents.

567--219.6(455D) Beneficial uses for shredded waste tires. This rule establishes acceptable beneficial uses for shredded waste tires and required design criteria that shall be observed in the placement of shredded tires at the site of end use. The following applications shall be considered acceptable beneficial uses for shredded waste tires:

1. Horizontal drainage "French drain" structures designed to lower the groundwater table and to transport excess water to another location or drainage structure, to be constructed as follows:

- The elevation of the drain outlet must be lower than the average seasonal groundwater table, so as to allow gravity drainage through the drain structure;
- The drainage structure width shall be no less than three feet and no more than six feet;
- The minimum depth of shredded tire material in the trench shall be greater than four feet;
- The minimum thickness of backfill over the trench shall be two feet;
- Headloss of water flowing through the drain shall be due to elevation changes only; and
- Any site of end use to contain drainage structures composed of more than 300 cubic yards of shredded tires shall be constructed under the auspices of an Iowa licensed professional engineer.

2. On-site wastewater treatment and disposal system construction, to include use of shredded tires in lateral trenches and as fill to cover distribution pipes under the following conditions:

- The on-site wastewater treatment and disposal system is constructed and permitted according to the requirements of 567—Chapter 69;
- Shredded tires to be used in the system shall have a minimum dimension of one inch on any one side and a maximum dimension of three inches on any one side, and;
- The administrative authority responsible for issuance of the permit approves the beneficial use. The authority shall have the sole discretion to deny use of shredded tires in system construction based on any engineering or design principle concerns.

3. Lightweight fill in public roads, public road embankment construction, and other public civil engineering applications, if all of the following conditions are met:

- The tire shreds are of uniform composition and sizing;

• The tire shreds are not mixed with other solid wastes, vegetation, composted materials, or other processed tire products, including separated tire bead wire, steel cording or nylon fibers;

• The tires are not placed in direct contact with surface or groundwater;

• The shredded tires are isolated from overburden materials by a protective membrane or liner to prevent intrusion and settling of overburden; and

• An Iowa licensed professional engineer designs and supervises the incorporation of shredded tires in beneficial uses of this manner.

4. Structural foundation drainage material used in a project as approved through a local building permit; and

5. A bulking agent for composting operations at permitted composting facilities, with tire shreds used to be no larger than three inches on any one side.

567--219.7(455D) Beneficial uses for baled waste tires. This rule establishes acceptable beneficial uses for baled waste tires and required notifications and approvals that must be obtained from the department prior to placement of baled tires at the site of end use.

219.7(1) Beneficial uses. Civil engineering applications including stream bank and soil erosion control shall be considered acceptable beneficial use applications for baled waste tires. Such applications involving the use of more than 50 cubic yards of baled waste tires to be used at any one site of end use must be conducted under the immediate direction of one of the following entities:

1. A federal agency, including but not limited to the Army Corps of Engineers, the Natural Resources Conservation Service, or the Bureau of Land Management;

2. A state agency including, but not limited to, the Iowa department of transportation; or

3. An Iowa licensed professional engineer.

219.7(2) Required notifications and approval. Prior to the installation or placement of beneficial uses of baled waste tires as approved in subrule 219.7(1), the owner or operator of the site of end use shall properly notify or seek approval from the department's environmental protection division, solid waste section, for the proposed beneficial use under the following circumstances:

a. For applications of less than 25 cubic yards of baled waste tires at a site of end use, notification to the department shall not be required, subject to the end-user's compliance with all requirements of this chapter.

b. For applications of 25 to 50 cubic yards of baled waste tires, the department shall be notified in writing no less than 30 days prior to the construction or placement of waste tires for a beneficial use, with the following information provided:

(1) The name of the owner, operator, or individual to be responsible for the beneficial use application at the site of end use including address, and telephone number;

(2) The address of the beneficial site of end use;

(3) The estimated total number of cubic yards of tires to be used;

(4) A description of the beneficial use application;

(5) A project time line, including proposed project start and end dates; and

(6) A statement regarding how such waste tires shall be properly disposed of by the site owner in the event that the beneficial use is discontinued or dismantled.

c. For beneficial use applications of 50 or more cubic yards of baled waste tires, approval by the department shall be obtained prior to any such applications. Approval requests

shall be made to the department's environmental protection division, solid waste section, in writing and shall contain all information as requested in paragraph 219.7(2)"b," as well as a scaled plan of the site of end use with areas noted where baled waste tires are to be placed, including locations of the site of end use property lines, and the location of any structures within 500 feet of the site of end use.

567--219.8(455D) Beneficial uses for cut waste tires. This rule establishes acceptable beneficial uses for cut waste tires. Notifications and approvals shall not be required by the department prior to the use or placement of cut tires at a site of end use as approved in this rule, so long as such uses incorporate into their design and construction measures to prevent the retention and stagnation of surface water, in the event that such conditions are likely to exist. Such measures shall be designed to minimize risks to public health and safety caused by the breeding of disease-carrying insects and rodents. The following applications shall be considered acceptable beneficial uses for cut waste tires:

1. Agricultural uses to hold down covers over hay, silage, and other agricultural commodities;
2. Traffic control devices for use in public roadway construction projects;
3. Portable surfaces manufactured from tire faces or tread;
4. Silt collection fences manufactured from tire faces or tread; and
5. Bagel-cut tires used for underturf water conservation and turf growth enhancement systems at golf courses.

567--219.9(455D) Requests for approval of other beneficial use designations. The department shall have the authority to approve or deny requests for beneficial use applications for whole, shredded, baled, or cut waste tires that are not specifically addressed within this chapter. Requests for such use determinations shall be made to the department's environmental protection division, solid waste section, in writing. The department may request project descriptions and supporting scientific and engineering data to determine if a request for a beneficial use designation is warranted. The department shall approve or deny a request for approval within 30 days of receipt of such a request and supporting data if so required by the department. The department shall have the sole authority to deny a beneficial use request if the department determines that any one of the following conditions exists:

1. The requested beneficial use designation poses a risk to the environment or to public health, welfare, and safety;
2. The requested beneficial use designation is determined to have the primary purpose as a land disposal mechanism, and any beneficial use would be incidental in nature; or
3. The requested beneficial use designation would not be in accordance with other applicable federal, state, or local laws, regulations, and ordinances.

567--219.10(455D) Compliance with local, state, and federal regulations. Any proposed beneficial use project or application of whole, shredded, baled, or cut waste tires may require approval or permits from federal, state, and local agencies, under other laws, regulations, and ordinances, as applicable, including but not limited to the following:

1. The Army Corps of Engineers for projects involving navigable waterways and other waterways over which they have jurisdiction;

2. Waste tire beneficial use applications involving placement on or within land or waters contained within a floodplain shall have necessary approval from the department's floodplain management program, as specified in 567--Chapters 70 through 75; and

3. Local building codes, zoning and land-use covenants, ordinances, and guidelines.

567--219.11(455D) Storage of waste tires prior to beneficial use application. Whole, shredded, cut, or baled tires to be used for a beneficial use application may be stored at the site of end use, subject to the following requirements:

219.11(1) Tires may be stored in piles or bales for no longer than 60 days prior to the date of application, excepting whole waste tires for agricultural uses as specified in paragraph 219.5(1)"d."

219.11(2) All storage of such waste tire materials shall be conducted in accordance with current statutes of the uniform fire code and shall also meet the following requirements:

a. No single tire pile shall contain more than 50,000 cubic feet of waste tire material;

b. The highest (vertical) dimension of any tire pile shall not exceed 10 feet;

c. The largest surface area covered by a pile shall not exceed 5,000 square feet; and

d. Fire lanes having a minimum width of 40 feet must be maintained between any two tire piles.

219.11(3) Any storage of waste tires associated with a proposed beneficial reuse project at a site of end use that exists longer than 60 days without implementation of completion of a beneficial reuse project shall be subject to the waste tire storage permitting requirements as contained in 567--Chapter 117.

These rules are intended to implement 1996 Iowa Acts, House File 2433, section 9.

_____

Date

_____

Larry J. Wilson, Director

Ms. Timmins explained details of the rule and changes made since it was approved for Notice of Intended Action.

Motion was made by Rozanne King to approve Final Rule--Chapter 219, Beneficial Uses of Waste Tires. Seconded by Rozanne King. Motion carried unanimously.

APPROVED AS PRESENTED

MONTHLY REPORTS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report

3. Hazardous Substance/Emergency Response Report
4. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

RULEMAKING STATUS REPORT
October 1, 1998

PROPOSAL	NOTICE TO COMM	NOTICE PUBLISH	RULES REVIEW COMM	HEARING	FINAL SUMMARY TO COMM	RULES ADOPTED	RULES PUBLISH	RULES REVIEW COMM	RULE EFFECTIVE
1.Ch. 12– Environmental Audits	9/21/98	*10/21/98	*11/03/98	*11/10/98	*12/21/98	*12/21/98	*1/13/99	*2/08/99	*2/17/99
2. Ch. 22, 23, and 25, Hospital, Medical and Infectious Waste Incinerators, and Municipal Waste Combustors	3/16/98	AMENDED 8/26/98 4/08/98	9/07/98 5/04/98	9/02/98 5/25/98	10/19/98	*10/19/98	*11/18/98	*12/07/98	*12/23/98
3. Ch. 65 – Animal Feeding Operation Rules	10/19/98	*11/18/98	*12/07/98	*12/ /98	*12/21/98	*12/21/98	*1/13/99	*2/08/99	*2/17/99
4. Ch. 137 – Brownfield Program	7/20/98	8/12/98	9/07/98	9/1,2,3/98	10/19/98	*10/19/98	*11/18/98	*12/07/98	*12/23/98
5. Ch. 219 – Waste Tire Beneficial End Users	7/20/98	7/20/98	9/07/98	9/02/98	10/19/98	*10/19/98	*11/18/98	*12/07/98	*12/23/98

VARIANCE REPORT - SEPTEMBER 1998

Item	Facility	Program	Subject	Decision	Date
1	Cargill, Inc.-Eddyville	Air Quality	Permit Requirements	Approved	09/29/98
2	Cargill, Inc.-Iowa Falls	Air Quality	Permit Requirements	Approved	09/17/98
3	Heartland Pork Enterprises-Iowa Falls	Air Quality	Permit Requirements	Denied	09/18/98
4	Clear Lake Sanitary District	Wastewater	Pump Clogging Protection	Approved	09/04/98
5	Clear Lake, City of	Wastewater	Manhole Spacing	Approved	09/28/98
	Drees Swine Confinement-Crawford County	Wastewater	Engineer's Certification	Approved	09/14/98
7	Wesley Woods Camp & Retreat Center-Warren County	Wastewater	Number of Lagoon Cells	Approved	09/22/98
8	Dubuque, City of	Flood Plain	Backwater	Approved	09/17/98
9	Benton County Sanitary Landfill	Solid Waste	Groundwater Monitoring	Approved	09/14/98
10	Bluestem Solid Waste Agency-Site #2-Linn County	Solid Waste	Liner	Approved	09/16/98
11	Bluestem Solid Waste Agency-Site #2-Linn County	Solid Waste	Leachate	Approved	09/16/98
12	Muscatine C&D Sanitary Landfill-Muscatine County	Solid Waste	Groundwater Monitoring	Approved	09/17/98
13	Muscatine C&D Sanitary Landfill-Muscatine County	Solid Waste	Gas Control	Approved	09/17/98

14	Neal North Ash Landfill-Woodbury County	Solid Waste	Groundwater Monitoring	Approved	09/28/98
15	JAC Pork, Inc.-Clay County	Watersupply	Siting Criteria	Approved	09/16/98
16	Palisades-Kepler State Park-Linn County	Watersupply	Construction Materials	Approved	09/14/98
17	Shawver Well Company, Inc.-Fredericksburg	Watersupply	Construction Materials	Approved	09/02/98
18	Turkey Creek Subdivision-Johnson County	Watersupply	Design Basis	Approved	09/29/98
19	Turkey Creek Subdivision-Johnson County	Watersupply	Siting Criteria	Approved	09/29/98
20	Woodland Lake Homeowner's Association-Bondurant	Watersupply	Installation Procedures	Approved	09/14/98

SPILL REPORT - SEPTEMBER 1998

From September 1, 1998, through September 30, 1998, 52 reports of hazardous conditions were received.

Month	Total Incidents	Petroleum Product	Agri - Chemical	Other Chemicals	Handling and Storage	Pipeline	Highway Incident	RR Incident	Fire	Other
Oct.	70(52)	37(28)	17(10)	16(14)	28(31)	6(0)	28(13)	5(4)	0(0)	3(4)
Nov.	44(33)	25(18)	9(9)	10(6)	15(16)	3(0)	23(12)	2(2)	0(0)	1(3)
Dec.	52(33)	27(20)	19(3)	6(10)	21(16)	4(1)	22(12)	4(0)	0(1)	1(3)
Jan.	42(39)	32(28)	3(4)	7(7)	19(20)	2(1)	16(15)	1(2)	1(0)	3(1)
Feb.	48(54)	28(29)	5(7)	15(18)	24(29)	3(2)	13(20)	2(1)	1(2)	5(0)
Mar.	48(53)	27(37)	11(9)	10(7)	26(29)	0(0)	17(16)	2(4)	0(0)	3(4)
Apr.	60(64)	23(33)	23(25)	14(6)	25(28)	3(0)	25(30)	5(2)	(0)	2(4)
May	135(103)	58(35)	64(53)	13(15)	58(33)	3(2)	69(61)	2(4)	1(1)	2(2)
Jun.	118(81)	76(42)	24(20)	18(19)	70(49)	3(3)	38(23)	1(6)	0(0)	6(0)
Jul.	75(81)	48(42)	5(18)	22(21)	57(38)	0(5)	15(32)	0(2)	0(0)	3(4)
Aug.	45(34)	20(20)	2(6)	23(8)	29(18)	0(2)	10(11)	0(1)	0(1)	6(1)
Sept.	52(101)	27(53)	9(24)	16(24)	29(54)	3(3)	17(39)	0(2)	1(0)	2(3)

(numbers in parentheses for the same period in fiscal year '97)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
9	9	9	7	7	11

ENFORCEMENT STATUS REPORT

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Sioux Center, City of (3)	Wastewater	Discharge Limits	Order	9/2/98
West Liberty, City of (6)	Wastewater	Discharge Limits; Operational Violations	Order/Penalty $5,000	9/2/98
Interstate Pork, Inc., Cedar Co. (6)	Animal Feeding Operation	Prohibited Discharge; Confinement	Order/Penalty $3,000	9/4/98
Plum Enterprises; Clinton Graham, Polk Co. (5)	Solid Waste	Illegal Disposal	Order/Penalty $1,000	9/4/98
Action Jack's Paintball Park, Polk Co. (5)	Solid Waste Flood Plain	Illegal Disposal; Other	Order/Penalty $10,000	9/4/98
Ray Tyler d/b/a Tyler Excavating; Fred Knosby, Warren Co. (5)	Solid Waste	Illegal Disposal	Order/Penalty $1,000	9/4/98
M & W Pallet Co., Muscatine (6)	Solid Waste	Illegal Disposal	Order	9/4/98
Greg Morton; Brenda Hornyak, Decatur (5)	Solid Waste Air Quality Wastewater	Illegal Disposal; Open Burning; Operation Without Permit; Pollution Prevention Plan Violations	Order/Penalty $3,000	9/4/98
Akron, City of (3)	Wastewater	Monitoring/Reporting; Operational Violations	Order/Penalty $3,000	9/4/98
Verton S. Miller, Johnson Co. (6)	Animal Feeding Operation	Prohibited Discharge-Open Feedlot; Water Quality Violations-General Criteria	Order/Penalty $2,000	9/8/98
James Yoder, Johnson Co. (6)	Animal Feeding Operation	Land Application Separation Distance	Order	9/8/98
Randy Harbach d/b/a Randy's Sanitation; Randy Harbach Enterprises, Delaware Co. (1)	Solid Waste	Illegal Disposal	Order/Penalty $5,000	9/16/98
Reed's Auto Salvage, Clinton Co. (6)	Air Quality Solid Waste Wastewater	Open Burning; Illegal Disposal; Prohibited Discharge	Order/Penalty $1,000	9/16/98
Russell Zook d/b/a	Air Quality	Open Burning;	Order/Penalty	9/16/98

Haskins Recycling, Washington Co. (6)	Solid Waste	Illegal Disposal	$5,000	
Leland DeWitt, Louisa Co. (6)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/Penalty $3,000	9/16/98
Jerry Ludwick, Columbus City (6)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Order	9/16/98
The Legacy Group L.C., Easter Lakes Estates Site, Polk Co. (5)	Wastewater	Pollution Prevention Plan Violation	Order/Penalty $10,000	9/16/98
Warnke Construction Co., Inc. Randean Warnke, Carroll Co. (4)	Air Quality Solid Waste	Open Burning; Asbestos; Illegal Disposal	Order/Penalty $10,000	9/16/98
John Janning, Carroll Co. (4)	Air Quality Solid Waste	Open Burning; Asbestos; Illegal Disposal	Order/Penalty $10,000	9/16/98
Miller's Deconstruction and Fabrication, Clinton Co. (6)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/Penalty $750	9/24/98
Ray Stamper; Bryan Zenor, Polk Co. (5)	Solid Waste	Illegal Disposal	Order/Penalty $2,000	9/24/98
4-Way Tap, Holy Cross (1)	Drinking Water	MCL-Bacteria; Public Notice	Emergency Order	9/28/98
The Elm's Corporation of Linn County, Cedar Rapids (1)	Underground Tank	Closure Investigation	Order/Penalty $4,700	9/28/98

SUMMARY OF ADMINISTRATIVE PENALTIES

The following administrative penalties are due:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Marvin Kruse d/b/a K & C Feeds (Luana)	UT	300	12-01-92
Duane Pospisil d/b/a Duane's Service (Lisbon)	UT	1,000	5-04-93
Melvin Foubert d/b/a Mel's Repair Service (What Cheer)	UT	400	12-13-93
Stan Simmer d/b/a Tire City (Des Moines)	UT	600	12-21-93
Leland Koster and Jim Koster (Alexander)	UT	350	6-11-94
Coralville Lake Terrace Assn. (North Liberty)	WS	550	9-01-94
Bill Dettman d/b/a Dettman Oil Co. (Fonda)	UT	2,800	9-15-94
*Dale Hall d/b/a Hall Oil Co. (Des Moines)	UT	250	11-15-94
William R. Hennessey & Son, Inc. (Cedar Rapids)	UT	2,670	12-06-94
Donald K. Schmidt (Cedar Rapids)	UT	3,000	12-27-94
Collier Oil Co.; Clark Concrete Co. (Onawa)	UT	3,300	1-22-95
Rock Falls Lounge (Rock Falls)	WS	1,500	6-12-95
David A. Dohlman d/b/a Dave's Conoco (Dumont)	UT	2,300	7-18-95
M & L Service; Loyal Dorr; Mark Courtney (Guthrie Center)	UT	1,000	8-30-95

Norman Klynsma d/b/a OK One Stop Service (Hospers)	UT	2,000	9-01-95
Searsboro, City of	WW	2,500	11-08-95
Economy Solar Corp. (Monticello)	AQ	7,500	11-25-95
Elery Fry; Allen Fry; Becky Sandeen (Monroe Co.)	SW	6,000	1-20-96
Patrick McCoy (Keokuk Co.)	AQ/SW	2,000	2-10-96
Cheryl Straughn d/b/a Cher's Mini Mart (Chapin)	UT	600	2-21-96
David Kramer (Camanche)	UT	600	5-03-96
Latimer, City of	WS	150	5-03-96
McClelland Bar & Grill (Council Bluffs)	WS	100	5-06-96
Paul L. Dunkel (Delaware Co.)	SW	1,500	6-27-96
*Orrie's Supper Club, Inc. (Hudson)	WS	650	7-15-96
Plantation Village Mobile Home Park (Burlington)	WW	1,000	8-01-96
Dennis L. Mattison (Winnebago Co.)	AQ/SW	600	9-03-96
Riverside Lutheran Bible Camp (Story City)	WS	500	10-28-96
Gassman's MHP & Spruce Harbor Inn (Dubuque)	WS	4,500	12-26-96
Mark Anderson d/b/a Westside Park for Mobile Homes; M A, Inc. (Burlington)	AQ/SW	1,000	1-03-97
*Ken Frese (Keokuk Co.)	AQ/SW	175	1-09-97
J.F.V. Corporation; Frank Hawk; Sharon Hawk (Prole)	UT	600	2-19-97
Hofer's Danceland Ballroom (Walford)	WS	3,188	4-19-97
Ronald Slocum; Tammy Lynn Determan (Marshall Co.)	SW	10,000	5-24-97
*Vernon Kinsinger d/b/a K & K Sanitation (Washington Co.)	AQ/SW	9,530	6-05-97
Fibred-Iowa, Inc. (Iowa Falls)`	AQ	2,000	7-29-97
Roy E. Hawkins (Newton)	SW	1,000	10-22-97
South Park Mobile Home Park (Iowa Falls)	WW	1,000	1-04-98
James LaFollette d/b/a Jim's Tree Service; Kurt Douglas (Marion Co.)	AQ/SW	2,000	2-16-98
Russell Barkema d/b/a Barkema Construction (Wright Co.)	AQ/SW	1,000	3-31-98
# Harold Unternahrer (Washington Co.)	AFO	3,000	4-06-98
Webb, City of	WS	2,000	4-27-98
Sale-R-Villa Const., Inc. (Perry)	AQ	7,000	5-01-98
Larry Cope, Susan E. Cope, Bill VanPelt (Carlisle)	WW	1,500	5-05-98
Dennis Sharkey d/b/a Sharkey Bldg. Wrecking (Dubuque)	AQ	2,000	7-01-98
# Troy Hanson (Wright Co.)	AFO	1,500	8-14-98
*R.V. Hopkins, Inc. (Davenport)	AQ	15,700	8-15-98
Big Ten Mart/Truck Stop (Lowden)	WS	5,000	8-17-98
# Rodney Mullins (Humboldt Co.)	AFO	500	8-22-98
Albert Fleming (Clayton Co.)	FP	2,000	9-06-98
Oakland Mills Store (Mt. Pleasant)	WS	200	9-07-98
Eagle Lane Corp. (Blue Grass)	WS	4,000	9-14-98
# Vande Haar Dairy Farm (Marion Co.)	AFO	3,000	9-15-98
Pewe Mercantile, Inc.; Dion Pewe (Grand Mound)	UT	10,000	9-20-98
Mike's Fisherman's Wharf (Dubuque)	WS	2,500	11-01-98
Randy Foth d/b/a Foth Lumber Co. (Livermore)	AQ	10,000	11-01-98
Kalona Golf Club (Washington Co.)	WS	250	10-31-98
Robert Black d/b/a Blackie's Auto Repair (Worth Co.)	AQ	1,000	10-30-98
Dennis McHugh (Clay Co.)	AQ/SW	3,000	11-01-98
West Liberty, City of	WW	5,000	11-07-98
# Interstate Pork, Inc. (Cedar Co.)	AFO	3,000	11-07-98
Greg Morton; Brenda Hornyak (Decatur Co.)	SW/AQ/WW	3,000	11-04-98
Action Jack's Paintball Park (Polk Co.)	SW/FP	10,000	11-07-98
The Legacy Group, L.C. (Des Moines)	WW	10,000	11-07-98
Akron, City of	WW	3,000	11-07-98
Tyler Excavating; Fred Knosby (Warren Co.)	SW	1,000	11-08-98

Leland DeWitt (Louisa Co.)	AQ/SW	3,000	11-21-98
Randy Harbach d/b/a Randy's Sanitation (Delaware Co.)	SW	5,000	11-22-98
John Janning (Carroll Co.)	AQ/SW	10,000	11-22-98
Warnke Construction Co.; Randean Warnke (Carroll Co.)	AQ/SW	10,000	11-23-98
*Home Asbestos & Lead Abatement Services (Johnston)	AQ	1,500	1-15-99
Reed's Auto Salvage (Clinton Co.)	AQ/SW/WW	1,000	-----
Russell Zook d/b/a Haskin's Recycling (Washington Co.)	AQ/SW	5,000	-----
Plum Enterprises; Clinton Graham (Polk Co.)	SW	1,000	-----
Jeff Bendickson; Karen Bohl (Manhly)	AQ/SW	500	-----
Deer Ridge Estates (Ottumwa)	WS	100	-----
Miller Deconstruction & Fabrication (Clinton Co.)	AQ/SW	750	-----
The Elm's Corporation of Linn County (Cedar Rapids)	UT	4,700	-----
Ray Stamper; Bryan Zenor (Polk Co.)	SW	2,000	-----
Barr Farm Venture; Mel Foster Co. Properties (Scott Co.)	WW	10,000	-----
Sparboe Eagle, LLC (Wright Co.)	AFO	3,000	-----
	TOTAL	**158,700**	

The following cases have been referred to the Attorney General:

Donald P. Ervin (Ft. Dodge)	SW	669	3-05-90
Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
Vernus Wunschel d/b/a Wunschel Oil (Ida Grove)	UT	300	1-12-92
Verna and Don Reed; Andrea Silsby (Union Co.)	SW	1,000	4-07-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	3,070	10-11-94
Relative, Inc.; Doug Smuck (Des Moines)	UT	600	10-11-94
Trust Trucking Corp.; Jim and Brenda Huyser (Lovilia)	UT	840	11-01-94
Paul Underwood d/b/a Underwood Excavating (Cedar Rapids)	AQ	4,000	3-24-95
Oscar Hahn (Solon)	AQ/SW	2,000	8-29-95
Randy Ballard (Fayette Co.)	FP	2,000	5-30-95
ESCORP Associates Ltd.,; Arnold Olson (Cedar Rapids)	AQ	10,000	7-09-95
Long Branch Tavern (Monmouth)	WS	100	5-01-96
Long Branch Tavern (Monmouth)	WS	6,400	10-28-96
Long Branch Tavern (Monmouth)	WS	200	3-18-97
Dean Williams d/b/a Williams Oil Co. (Stuart)	UT	4,800	
Carpenter Bar & Grill (Carpenter)	WS	725	9-27-96
Don Grell d/b/a Dodger Enterprises (Ft. Dodge)	AQ	10,000	2-16-93
Hidden Valley Mobile Home Court (Washington Co.)	WS	200	10-22-94
Robert Jeff White (Dallas Co.)	AQ/SW	10,000	7-14-97
Charlie's Supper Club (Algona)	WS	100	8-01-98
Edward Bodensteiner (Des Moines)	UT	3,200	3-31-96
Wunschel Oil, et.al. (Battle Creek)	UT	4,400	12-23-96
Tire-Tech Environmental Systems, Inc. (Muscatine)	SW/WW	2,500	
	TOTAL	**68,104**	

The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
Joe Eggers, Jr., et.al. (St. Ansgar)	SW	1,000
Hickory Hollow Water Co. (Ankeny)	WS	400
Wayne Transportation, Inc. (Greene)	WW	1,000
Mulgrew Oil Company (Dubuque)	HC	500

Chickasaw Co. SLF, et.al. (Chickasaw Co.)	SW	1,000
Plymouth Cooperative Oil Co. (Hinton)	WW	1,000
King's Terrace Mobile Home Court (Ames)	WW	500
ITWC, Inc. (Malcom)	AQ	1,000
Frank Hulshizer (Benton Co.)	SW	500
LeMars, City of	WW	5,000
Crane Co. d/b/a Crane Valves (Washington Co.)	SW	500
Donald Udell (Plymouth Co.)	SW	1,000
Oakwood Park Water, Inc. (Ankeny)	WS	1,000
Waverly Gravel & Ready-Mix aka Shell Rock Sand and Gravel (Shell Rock)	AQ	3,000
Coastal Mart, Inc.-Store #1081 (Davenport)	UT	5,320
HiWay Texaco, Ltd.; Roger Kanne; Rick Kanne (Bagley)	UT	5,000
Joseph L. Ranker; Daryl Hollingsworth (Indianola)	UT	4,000
Tom Wiseman (Sheffield)	UT	3,500
Karl and Thelma Boylan d/b/a Boylan's Service (Northboro)	UT	1,800
William Jensen d/b/a B & B Tire & Oil Co. (Avoca)	UT	2,300
Crabtree Lake Resort (Rhodes)	WW	5,400
Elmer R. Faust d/b/a Faust Garage & Grocery (Delaware)	UT	2,300
American Coals Corporation - Site #5 (Bussey)	AQ/SW	10,000
H.E.W., Inc. aka Hazardous Environmental Wastes, Inc. aka Algona Roofing & Insulation, Inc. (Algona)	AQ	5,000
Bankston, City of	WS	550
Wunschel Oil, et.al. (Ida Grove)	UT	10,000
Jim Foust (Indianola)	SW	2,175
Titan Wheel International, Inc. (Walcott)	WW	10,000
Ronald Sizemore and Mark Murphy (Eldora)	UT	3,200
Keith Owens and Howard Maurer (Wilton)	UT	3,100
Tom Babinat d/b/a Tom's Car Care (Grundy Center)	UT	3,600
Henry and Randy Krohn d/b/a Krohn Const. (Waukee)	AQ/SW	4,000
James and Roxann Neneman; J&R Mini Mart (Council Bluffs)	UT	3,900
Simonsen Industries, Inc. (Cherokee Co.)	WW	5,000
Dennis Malone & Joanne Malone (Morning Sun)	UT	600
Economy Solar Corp.; Jeffrey C. Intlekofer (Cedar Rapids)	AQ	10,000
Marty Feinberg d/b/a Feinberg Scrap Iron; Betty Feinberg; F & F Metals (Lee Co.)	HC/WW	10,000
Earth Media Technologies, Inc. (Polk Co.)	SW	3,000
Pilot Oil Corporation (Walcott)	WW/UT	5,000
Leonard C. Page (Adams Co.)	SW	3,000
Boyer Valley Company (Arion)	WW	8,000
Wilbur McNear; Gilbert Persinger (Smithland)	UT	2,500
Donald Krieger (Terrill)	UT	600
Donald J. Foreman d/b/a D & R Feedlots (Woodbury Co.)	WW	3,000
Wilbur McNear d/b/a McNear Oil Co. (Charter Oak)	UT	2,000
Holiday Mobile Lodge, Inc. (Johnson Co.)	AQ/SW	2,000
Shell Rock Products, Inc. (Butler Co.)	AQ/SW	10,000
E.L. Incorporated (Algona)	SW	5,000
Weber Construction, Inc. (Cascade)	AQ	4,000
Tri-County Bank & Trust (Cascade)	AQ	4,000
Jack Pinney Operations, Inc. (Sioux City)	AQ	4,000
Roy Burger (Gillette Grove)	UT	5,400
Fremont County Sanitary Landfill (Fremont Co.)	SW	5,000
Spencer Municipal Hospital (Spencer)	AQ	3,000
Westside Park for Mobile Homes (Burlington)	WW	3,000

Climax Molybdenum Company (Ft. Madison)	HC/AQ	10,000
Clarence, City of	WW	3,000
Daryl & Karen Hollingsworth d/b/a Medora Store(Indianola)	UT	4,800
Hidden Valley Mobile Home Park (Washington)	WW	2,000
Markley Knock d/b/a Knock's Bldg. Supply (Parkersburg)	AQ/SW	2,000
Russell Stagg (Muscatine Co.)	AQ/SW	2,000
Obie's Hurstville Tap, Inc. (Maquoketa)	WS	100
Dallas County Care Facility (Adel)	WW	2,500
Mount Joy Mobile Home Park (Davenport)	WW	2,000
Louisa-Muscatine Community School (Letts)	WS	500
Davenport Travel Plaza (Walcott)	WS	250
Vermeer Manufacturing Co. (Pella)	AQ	10,000
Gary Walker (Montgomery Co.)	AQ/SW	3,000
Haasco, Ltd. (Dubuque)	AQ	3,000
Bernie Brauns d/b/a Brauns Waste Mgmt. (Muscatine Co.)	AQ/SW	10,000
Ron Rupe (Polk Co.)	SW	2,000
Richard L. Magdefrau (Washington Co.)	AQ/SW	2,000
Lamoni, City of	WW	1,000
Margaret and Gene Palmersheim d/b/a G & M Service Mart (Greeley)	UT	1,500
Dakota Mobile Home Park (Oxford)	WW	2,550
Waste Mgmt. & Design; Monfort, Inc. (Des Moines)	SW/WW	10,000
#Boomsma Egg Site #1; A.J. DeCoster (Wright Co.)	WW	1,000
Richard Sprague (Tripoli)	AQ/SW	5,000
Joseph Barragy; Tom Barragy; J & M Woodshavings, Inc. (Cerro Gordo Co.)	AQ/SW	4,000
Carroll, City of	WS	3,000
Todd L. Salow (Washington)	AQ/SW	5,000
Camp Golden Valley (Lockridge)	WW	5,700
Holliman LTD.; Terry Holliman (Hamburg)	SW/WW	10,000
Organic Technologies Corp.; Tim Danley; Ken Renfro (Warren Co.)	SW/WW	10,000
Ralene Hawkins d/b/a R.J. Express Salvage & Demolition; Clara Lindstadt (Des Moines Co.)	AQ/SW	1,000
Bellevue Golf Club, Inc. (Bellevue)	WS	300
Cliff's Place, Inc. (Waverly)	WS	1,500
Craig Burgin (Indianola)	UT	600
Wayne Johnson (Rockford)	AQ/SW	1,000
Sylvan Acres (Janesville)	WS	1,000
Paul Behounek; Todd Behounek (Tama Co.)	AQ/SW	7,100
Delaware County Landfill, Inc.	SW	5,000
Brittany Estates Addition (Manchester)	WS	4,000
Kruger Seed Co. (Dike)	AQ	3,000
Ritchie Industries, Inc. (Conrad)	AQ	3,000
Bob Luke d/b/a D & R Tree Service (Washington)	AQ/SW	1,000
Country Pumpkin (Deloit)	WS	500
Robert Frees; Elizabeth Mathes (Washington Co.)	SW	1,000
Iowa Waste Systems, Inc.; Fayette Co. Solid Waste Comm.	SW	10,000
Advanced Technologies Corp. (Waterloo)	AQ	7,500
Biovance Technologies, Inc. (Oskaloosa)	AQ	4,000
Stellar Industries, Inc. (Garner)	AQ	3,000
Joyce Wagner; Bruce Manthe d/b/a Wagner Truck Wash (Merrill)	WW	5,000
Iowa Mold Tooling Co., Inc. (Garner)	AQ	5,000
Keokuk Steel Castings Co., Inc. (Keokuk)	AQ	5,000
Walnut Grove Water Company (Davenport)	WS	2,500
North Central Cooperative (Clarion)	WW/HC	2,000

# Iowa Select Farms, L.P. (Hardin Co.)	WW	1,500
Troy Elevator, Inc. (Troy)	WW/HC	4,000
Milton, City of	SW/AQ	1,000
# Austin J. DeCoster (Nursery 8) (Wright Co.)	WW	1,000
# Iowa Select Farms, L.P. (Sow 8) (Wright Co.)	WW/HC	3,000
Sac City, City of	WW	4,000
Rockwell City, City of	WW	10,000
James Mills (Webb)	AQ/SW	3,000
Webb, City of	AQ/SW	3,000
Ira and Debby Cooley; Karen Sauer (Keokuk Co.)	AQ/SW	1,000
Ed Engelbrecht d/b/a E & E Auto Salvage (Lee Co.)	AQ/SW	1,000
Enviro Safe Air, Inc. (Creston)	AQ	10,000
Pathway Christian School (Kalona)	WS	500
Pictured Rocks Methodist Camp (Monticello)	WS	700
Wiese Corporation (Perry)	AQ	5,000
Ben Haven Mobile Home Park	WS	5,500
Howard Victor and Wanda Victor (Des Moines)	UT	10,000
Gary Lund Construction (Eagle Grove)	SW	5,000
# Verton S. Miller (Johnson Co.)	AFO	2,000
Dwight Johnston (Knoxville)	AQ/SW	10,000
Rosebar Tire Shredding Center; Dan Schwitters (Vinton)	SW	10,000
	TOTAL	**483,745**

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
Marvin Low d/b/a Low's DX (Toledo)	UT	3,950
*#Leroy Wulf (Des Moines Co.) PAID IN FULL	WW	250
Beacon, City of	WW	3,000
*#John Adam (Keokuk Co.) PAID IN FULL	WW	2,500
# Irvin Leichty (Henry Co.)	WW	1,500
Site Services, Ltd. (Waterloo)	AQ	500
	TOTAL	**11,700**

ATTORNEY GENERAL REFERRALS

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Status	Date
Advanced Technologies Corp. Iowa City (6)	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed	6/20/97 6/05/98
Ballard, Randy Fayette Co. (1)	Flood Plain	Construction Without Permit	Order/Penalty	Referred Petition Filed	5/29/96 6/05/98
Bodensteiner, Edward Des Moines (5)	Underground Tank	Site Assessment	Order/Penalty	Referred	8/17/98
Buringrud, Mark d/b/a					

Carpenter Bar and Grill Carpenter (2)	Drinking Water	Monitoring/Reporting- Bacteria, Nitrate	Order/Penalty	Referred Petition Filed	11/17/97 6/04/98
Clark, Doug d/b/a Charlie's Supper Club Livermore (2) **UPDATED**	Drinking Water	Failure to Renew Permit; Monitoring/Reporting	Order/Penalty	Referred Petition Filed	7/20/98 9/24/98
DeCoster, A.J. Wright Co. (2)	Waste-water	Prohibited Discharge	Referred to Attorney General	Referred Petition Filed Hearing on Pre-Trial Motion Order Denying Defendant's Motion Order Granting State's Motion State's Motion to Compel Hearing Order Granting State's Motion Trial Closing Arguments Ruling ($59,000/Civil) Defendant's Notice of Appeal Defendant's Brief Filed Defendant's Amended Brief Filed State's Brief Filed State's Amended Brief Filed Defendant's Reply Brief Filed	7/17/95 1/23/96 10/28/96 11/06/96 11/21/96 1/28/97- 2/06/97 2/11/97 2/21/97 3/05/97 3/28/97 9/05/97 4/04/97 9/05/97 9/24/97 1/12/98 1/22/98 2/19/98
DeCoster, A.J. Nursery Unit #3 Wright Co. (2)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Petition Filed Consolidated With Sow Unit #1 (See Below)	8/19/96 11/25/96 4/28/97
DeCoster, Austin J. Sow Unit #1 (2)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Petition Filed State's Motion to Change Venue State's Motion to Consolidate Order Granting Motions Amended & Substituted Petition Filed Defendant's Motion for Partial Summary Judgment State's Motion for Partial Summary Judgment Hearing on Defendant's Motion for Partial Summary Judgment Hearing on State's Motion for Partial Summary Judgment Ruling Denying Defendant's Motion for Partial Summary Judgment Ruling Granting State's Motion for Partial Summary Judgment Trial Ruling for State Defendant's Notice of Appeal Defendant's Proof Brief Filed	1/22/97 4/24/97 4/28/97 4/28/97 4/28/97 5/19/97 7/14/97 8/04/97 8/11/97 8/25/97 9/02/97 9/04/97 9/16-18/97 1/15/98 2/13/98 7/08/98
DeCoster, Austin J. Sow Unit #11; Nursery			Referred to	Referred Petition Filed	6/20/97 3/20/98

Unit #7 Wright Co. (2)	Wastewat er	Prohibited Discharge	Attorney General	Consolidated With Nursery Unit #4 (See Below)	
DeCoster, Austin J. Nursery Unit #4 Wright Co. (2)	Wastewat er	Prohibited Discharge	Referred to Attorney General	Referred Petition Filed	8/18/97 3/20/98
DeCoster, Austin J. Sow Unit #3 Hamilton Co. (2)	Wastewat er	Prohibited Discharge	Referred to Attorney General	Referred	12/15/97
Farmers Hybrid Companies, Inc. Poweshiek Co. (1)	Animal Feeding Operation	Prohibited Discharge	Referred to Attorney General	Referred	3/16/98
Gassman, Charles and Ruth d/b/a Gassman's MHP Dubuque (1) **UPDATED**	Drinking Water	Monitoring/Reporti ng- Nitrate	Referred to Attorney General	Referred Petition Filed	6/15/98 10/01/98
Grell, Don d/b/a Dodger Enterprises Ft. Dodge (2) **UPDATED**	Air Quality	Open Burning	Order/Pen alty	Referred Petition Filed Application for Temporary Injunction	1/20/98 8/25/98 9/28/98
Hahn, Oscar Solon (6)	Air Quality Solid Waste	Open Burning Illegal Disposal	Order/Pen alty	Referred Petition Filed Entry of Default	12/18/95 4/18/96 11/01/96
Hidden Valley Mobile Home Court Washington Co. (6)	Drinking Water	Monitoring/Reporti ng - Lead and Copper	Order/Pen alty	Referred Petition Filed	1/20/98 9/29/98
Huyser, James; Trust Trucking Lovilia (5)	Undergro und Tank	Site Assessment	Referred to Attorney General	Referred Petition Filed Dismissed for Lack of Service Bankruptcy Petition Filed	11/21/94 4/18/96 9/20/96 9/20/96
Larson, Daryl Clinton Co. (6)	Wastewat er	Prohibited Discharge	Referred to Attorney General	Referred Petition Filed	10/20/97 6/26/98
Lehigh Portland Cement Co. Mason City (2) **NEW**	Air Quality	Construction Without Permit	Referred to Attorney General	Referred	8/17/98

Martinez, Vincent d/b/a Martinez Sewer Service Davenport (6)	Hazardous Condition	Remedial Action	Order/Penalty	Referred Petition Filed Partial Default Judgment (Injunction)	2/17/92 12/21/92 10/11/94
Organic Technologies; Tim Danley; Ken Renfrow; Mike Danley Warren Co. (5)	Solid Waste	Permit Violations	Referred to Attorney General	Referred	12/15/97
Orrie's Supper Club, Inc. Hudson (1) **UPDATED**	Drinking Water	Monitoring/Reporting; Lead & Copper	Order/Penalty	Referred Closed per DNR	10/16/95 5/04/98
Owens & Owens Realty, Inc. Wilton (6) **UPDATED**	Underground Tank	DNR Defendant	Defense	Petition Filed Answer Filed Dismissed	3/29/96 4/19/96 6/10/98
Papetti's of Iowa Food Products, Inc. Taylor Co. (4)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	1/22/97
Postville Pork Postville (1)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Petition Filed Trial Date	5/20/96 7/09/97 11/4/98
Reed, Verna and Don; Andrea Silsby Union Co. (4)	Solid Waste	Illegal Disposal	Order/Penalty	Referred Petition Filed Entry of Default	6/20/94 8/10/94 12/12/94
Relative, Inc.; Doug Smuck Des Moines (5)	Underground Tank	Insurance Violation	Order/Penalty	Referred Petition Filed Order Granting Default Judgment	10/17/94 5/12/95 11/26/96
Schoenberr, R.B. d/b/a Long Branch Tavern Monmouth (1)	Drinking Water	Permit Renewal	Orders/Penalties	Referred Petition Filed	6/20/97 6/04/98
Stickle Farms, Inc. Linn Co. (1) **UPDATED**	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Petition Filed Consent Decree ($5,000/Civil)	4/21/97 9/14/98 9/21/98
Tire Tech Environmental Systems, Inc.	Solid	Tire Processing Permit	Referred to	Referred Petition Filed	4/20/98 6/23/98

Muscatine (6) **UPDATED**	Waste	Violations	Attorney General	Hearing on Temporary Injunction Temporary Injunction	8/25/98 9/15/98
Tracy, Ronald d/b/a TRACE, Inc. Howard Co. (1)	Wastewater	Prohibited Discharge	Referred to Attorney General	Referred Criminal Complaint Filed	11/17/97 11/26/97
Underwood, Paul d/b/a Underwood Excavating and Demolition Cedar Rapids (1)	Air Quality	Asbestos	Order/Penalty	Referred Motion for Judgment	5/15/95 8/15/96
Village Realty Pottawattamie Co. (4) **NEW**	Underground Tank	DNR Defendant	Defense	Petition Filed	8/12/98
White, Robert Jeff Dallas Center (5)	Air Quality; Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred	4/20/98
Williams, Dean d/b/a Williams Oil Co. Stuart (4) **UPDATED**	Underground Tank	Site Assessment	Order/Penalty	Referred Petition Filed	10/20/97 9/24/98
Wunschel Oil Co.; Vernus Wunschel and Jaquelyn Wunschel Battle Creek (3)	Underground Tank	Site Assessment	Referred to Attorney General	Referred Motion for Judgment Consent Decree ($6,400/Admin.) Referred	1/17/95 8/28/96 12/13/96 3/30/98

CONTESTED CASES

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
6-08-89	Shaver Road Investments	Site Registry	HW	Tack	**Testing being done prior to revision of**
6-08-89	Hawkeye Rubber Mfg. Co.	Site Registry	HW	Tack	New draft consent order issued to company
6-08-89	Lehigh Portland Cement Co.	Site Registry	HW	Murphy	Hearing continued. Discovery initiated.
11-03-89	Bridgestone/Firestone, Inc.	Site Registry	HC	Murphy	Hearing continued pending negotiations.
5-08-90	Texaco Inc./Chemplex Co. Site	Site Registry	HW	------	Settlement proposed.
5-14-90	Alter Trading Corp. (Council	Admin. Order	SW	Tack	Permit issued. District court suit dismissed.
6-20-90	Des Moines, City of	NPDES Permit	WW	Hansen	EPD met with City to resolve appeal issues.
7-02-90	Keokuk Savings Bank and	Site Registry	HW	-----	Hearing continued.
7-30-90	Key City Coal Gas Site; and	Site Registry	HW	-----	Decision appealed (Pixler).

8-01-90	J.I. Case Company	Site Registry	HW	Preziosi	Hearing continued indefinitely pending
1-07-91	Joe E. Eggers, Jr.; Joe and	Admin.	SW	Tack	**Settlement reached. Clean-up to be**
5-20-91	Great Rivers Coop-Lockridge	Site Registry	HC	Murphy	Settlement close, 7/1/98.
9-25-91	Archer Daniels Midland	Admin. Order	SW	Tack	DNR engineers reviewing documents.
1-17-92	Hickory Hollow Water Co.	Admin.	WS	Hansen	Settlement offer to WS. Counter offer
1-30-92	Center Oil Co., Inc.	Admin. Order	HC	Murphy	Negotiating before filing.
4-09-92	Wayne Transports, Inc.	Admin.	WW	Murphy	Negotiating before filing.
5-05-92	Plymouth Cooperative Oil Co.	Admin.	WW	Murphy	Negotiating before filing.
5-12-92	Paris & Sons, Inc.	Site Registry	HC	Murphy	Negotiating before filing.
6-23-92	Chickasaw County Board of	Admin.	SW	Tack	County to include closing in FY 1997
9-21-92	ITWC	Admin.	AQ	Preziosi	Settlement close. Negotiating penalty.
9-22-92	King's Terrace MHP	Admin.	WW	Hansen	8/94-Letter to facility regarding resolution
11-16-92	Frank Hulshizer	Admin.	SW	Tack	Amended order issued 1/11/96.
12-14-92	Quantum	Permit Conditions	WW	Hansen	3/30/93 Dept. settlement offer made. 5/03/93
4-05-93	Mapleton, City of	WW Operator	WW	Hansen	Under review by EPD. Appeal discussion
4-12-93	LeMars, City of	Admin.	WW	Hansen	Construction permit issued. Schedule
4-21-93	Donald Udell	Admin.	SW	Tack	**Awaiting penalty payment and appeal**
6-21-93	Jacobs Energy Corp., Inc.	Permit Denial	AQ	Preziosi	Hearing continued. Meeting held.
7-09-93	Oakwood Park Water, Inc.	Admin.	WS	Hansen	Construction permit issued 2/94. Facility to
7-20-93	Valley Restaurant/Sierp Oil;	Admin. Order	UT	Wornson	Tier 2 initiated.
11-16-93	Iowa Southern Utilities	Permit Conditions	AQ	Preziosi	8/12/97 - Appeal being reviewed in context
12-23-93	Waverly Gravel & Ready-Mix	Admin.	AQ	Preziosi	Negotiating penalty. Settlement close.
1-27-94	Archer-Daniels-Midland	Permit Conditions	AQ	Preziosi	Negotiating before filing.
2-28-94	Coastal Mart - Davenport	Admin.	UT	Wornson	Penalty settlement letter sent.
3-03-94	Burlington Northern Railroad	Tax Certification	WW	Hansen	3/96 - Letter to company regarding appeal.
5-10-94	Dennis Malone; Joanne Malone	Admin.	UT	Wornson	Untimely appeal. Compliance 3/97.
5-27-94	Joseph L. Ranker; Daryl	Admin.	UT	Wornson	Tanks closed. Property sold. Buyer not Fund
6-15-94	Lakeview Heights	Permit Conditions	WS	Hansen	Facility proposal under review by WS. DNR
7-12-94	Tom Wiseman	Admin.	UT	Wornson	Appeal untimely. Follow-up letter sent. Fund
8-12-94	Karl and Thelma Boylan d/b/a	Admin.	UT	Wornson	Inability to pay. Failed to return required
8-29-94	B and B Tire and Oil	Admin.	UT	Wornson	SCR accepted. Letter sent offering penalty
9-01-94	Elmer R. Faust d/b/a Faust	Admin.	UT	Wornson	SCR accepted - negotiating penalty.
9-02-94	Crabtree Lake Resort	Admin.	WW	Hansen	Facility in compliance.
9-06-94	HEW, inc.	Admin.	AQ	Preziosi	3/1/96 - Amended order to be issued.
9-09-94	American Coals Corp.,Site 5	Admin.	SW/AQ	Tack	**Bankruptcy filed. Phone conversation**
9-15-94	Bankston	Admin.	WS	Hansen	1/95 - Information from City. Compliance
9-16-94	Wunschel Oil Co.; Vernus	Admin.	UT	Wornson	Consent order. SCR received. Revisions to
9-26-94	James D. Foust	Admin.	SW	Tack	Hearing continued by ALJ because of
10-07-94	Titan Wheel International	Admin.	WW	Hansen	Revised BMR report submitted/reviewed by
11-14-94	Tom Babinat d/b/a Tom's Car	Admin.	UT	Wornson	Inability to pay - requested documentation --

12-14-94	Campbell Clean-Up Service	Permit Denial	AQ	Preziosi	Negotiating before filing.
1-10-95	Steamboat Rock	Admin. Order	WS	Hansen	2/95 - Settlement offer by City and response
1-11-95	Henry and Randy Krohn d/b/a	Admin.	AQ/SW	Tack	**Penalty settlement reached. Awaiting**
1-13-95	Simonsen Industries, Inc.	Admin.	WW	Hansen	2/28/95 - Submittal by facility's engineer
2-23-95	Lehigh Portland Cement	Permit Conditions	WW	Hansen	Informal settlement meeting held on 6/96.
3-23-95	American Coals Corp.	Admin. Order	SW	Tack	**Awaiting consent order approval.**
4-13-95	The Weitz Corp.; Barton	Admin. Order	HC	Tack	Remediation plan received 5/27/96.
5-05-95	C & O Recycling Enterprises;	Permit Denial	AQ	Preziosi	Negotiating before filing.
5-25-95	Marty Feinberg d/b/a Feinberg	Admin.	HC/WW	Tack	Hearing continued. Clean-up continuing.
5-25-95	E.I. DuPont DeNemours (95-A-	Permit Conditions	AQ	Preziosi	Awaiting engineering evaluation.
5-25-95	Fremont County SLF	Admin.	SW	Tack	Negotiating before filing.
5-30-95	Earth Media Technologies	Admin.	SW	Tack	In the process of clean-up.
5-31-95	E.I. DuPont DeNemours (91-A-	Permit Conditions	AQ	Preziosi	Awaiting engineering evaluation.
6-16-95	Pilot Oil Corporation	Admin.	WW/UT	Murphy	Compliance achieved; settlement offer made
6-20-95	Toledo, City of	Permit Conditions	WW	Hansen	WW permits to negotiate settlement. Status
6-23-95	Leonard C. Page	Admin.	SW	Tack	Penalty settlement due 8/30/97.
7-03-95	Donald J. Foreman d/b/a D & R	Admin.	WW	Hansen	Negotiating before filing.
7-05-95	Boyer Valley Co.	Admin.	WW	Hansen	Informal meeting held for 6/7/96. Response
7-10-95	Donald Krieger	Admin.	UT	Wornson	Tanks removed. Report due.
7-10-95	Gilbert Persinger/Smithland	Admin.	UT	Wornson	SCR received - rejected. Review progress.
8-01-95	Wilbur McNear d/b/a McNear	Admin.	UT	Wornson	SCR received/rejected. Referral for state
8-18-95	Holiday Mobile Lodge, Inc.	Admin.	AQ/SW	Tack	Appellant's attorney reply due 2/29/96.
8-24-95	Shell Rock Products, Inc.	Admin.	AQ/SW	Preziosi	Settlement offer due 8/1/96.
9-06-95	Kraft Foods Inc.; Oscar Mayer	Variance Denial	WW	Hansen	Follow-up letter requesting information sent
9-20-95	FKI Industries, Inc.; Fairfield	Admin. Order	WW/HC	Murphy	Negotiating before filing.
10-09-95	E.L. Incorporated	Admin.	SW	Tack	Appellant no longer accepting waste.
10-17-95	Tri-County Bank	Admin.	AQ	Preziosi	Awaiting penalty payment.
10-17-95	Weber Construction, Inc.	Admin.	AQ	Preziosi	Hearing held 4/25/97. Decision received in
11-03-95	Jack Pinney Operations, Inc.	Admin.	AQ	Preziosi	Settled. Awaiting penalty payment.
12-12-95	Vernon Kinsinger; K & K	Admin.	AQ/SW	Tack	Clean-up progressing. Working with F.O.
12-27-95	Ag Processing, Inc.	Permit Denial	AQ	Preziosi	Negotiating before filing.
12-29-95	Spencer Memorial Hospital	Admin.	AQ	Preziosi	**Hearing set for 11/18/98.**
1-04-96	Catherine E. Meredith	Admin. Order	UT	Wornson	Compliance initiated by Atlantic Bottling.
1-08-96	Westside Park for Mobile	Admin.	WW	Hansen	Past due monthly monitoring reports
1-11-96	Climax Molybdenum Company	Admin.	AQ/HC	Preziosi	Negotiating before filing.
1-12-96	Clarence, City of	Admin.	WW	Hansen	1/96 - Facility inspected by FO 6. 9/96
1-22-96	Daryl Hollingsworth and Karen	Admin.	UT	Wornson	Tanks removed. Property sold. Parties out-
1-25-96	Hidden Valley Mobile Home	Admin.	WW	Clark	Negotiating before filing.
1-25-96	Markley Knock d/b/a Knock's	Admin.	AQ/SW	Tack	**Hearing date to be set.**
2-06-96	Russell Stagg	Admin.	AQ/SW	Tack	Negotiating before filing.

3-11-96	Dallas County Care Facility	Admin.	WW	Hansen	Facility inspected by FO. Now in
3-14-96	Laurel, City of	Admin. Order	WW	Hansen	Information submitted by city under review
3-14-96	Lamoni, City of	Admin. Order	WW	Hansen	Flow information requested from City's
3-19-96	Obie's West	Admin. Order	WS	Hansen	Under review by WS section.
3-22-96	Mt. Joy Mobile Home Park	Admin.	WW	Hansen	3/25/96 Inspection by FO 6. Facility in
3-26-96	Louisa-Muscatine Community	Admin.	WS	Hansen	Negotiating before filing.
5-07-96	Lakeview Mobile Home Park	Admin.	WW	Hansen	6/20/96 - informal meeting held. Facility to
5-08-96	Vermeer Mfg. Co. (96AQ06)	Admin.	AQ	Preziosi	**Consent order drafted.**
5-14-96	Gary Lee Walker	Admin.	AQ/SW	Tack	Negotiating before filing.
5-16-96	Grand Laboratories, Inc.	Permit Denial	WW	Hansen	**Information received and reviewed by**
5-29-96	Haasco, Ltd.	Admin.	AQ	Preziosi	Negotiating before filing.
6-07-96	Clow Valve Company	Permit Conditions	AQ	Preziosi	Negotiating before filing.
6-07-96	Koehring Cranes, Inc.	Open Burning	AQ	Preziosi	Negotiating before filing.
6-10-96	DeCoster Farms of Iowa (19	Admin. Order	WW	Clark	Proposed decision 11/25/96. Appealed to
6-10-96	DeCoster Farms of Iowa (5	Permit Denial	WR	Clark	Proposed decision 11/25/96. Appealed to
6-19-96	Appanoose Co. Sanitary	Permit	SW	Tack	Hearing set for 6/29/98 - settlement pending.
6-25-96	Bernie Brauns d/b/a Brauns	Admin.	AQ/SW	Tack	Negotiating before filing.
7/17/96	Richard L. Magdefrau	Admin.	AQ/SW	Tack	Negotiating before filing.
8/01/96	DeCoster Farms of Iowa	Permit Denial	WW	Clark	Proposed decision 11/25/96. 12/27/96 -
8/01/96	DeCoster Farms of Iowa	Admin.	WW	Clark	Hearing continued - date to be set.
8/09/96	Gene and Margaret	Admin.	UT	Wornson	Negotiating before filing.
8/19/96	Capitol Oil Co., Inc. d/b/a	Admin.	WW	Clark	**Settlement letter sent 9/25/98.**
8/23/96	Waste Management & Design	Admin.,	WW/SW	Tack	Settlement pending.
8/30/96	Howard Victor & Wanda Victor	Admin.	UT	Wornson	Closed facility. Hearing set for 10/8/98.
9/04/96	Ag Processing, Inc./Sheldon	Permit Denial	AQ	Preziosi	Negotiating before filing.
9/24/96	North Star Steel Iowa	Permit Denial	AQ	Preziosi	Negotiating before filing.
10/11/96	DeCoster Farms of Iowa	Admin. Order	WW	Clark	Hearing continued indefinitely.
10/17/96	DeCoster Farms of Iowa	Permit Revocation	WW	Clark	Hearing continued indefinitely.
10/28/96	Fischer Controls International	Permit Conditions	WW	Hansen	Negotiating before filing.
11/01/96	Joseph Barragy and Tom	Admin.	AQ/SW	Tack	Negotiating before filing..
11/05/96	Marvin Low d/b/a Low's DX	Admin.	UT	Wornson	Tanks removed. Closure report submitted.
11/07/96	Todd L. Salow	Admin.	AQ/SW	Tack	Negotiating before filing.
11/08/96	Carroll, City of	Admin.	WS	Hansen	Returned to compliance.
11/25/96	Camp Golden Valley	Admin.	WW	Tack	Negotiating before filing.
12/02/96	Organic Technologies Corp.	Permit Denial	SW	Murphy	Proposed decision received 8/1/97;
12/05/96	Organic Technologies Corp. ---	Admin.	SW	Murphy	Proposed decision received 8/1/97;
1/02/97/	Ruan Leasing Co., aka Ruan	Admin. Order	AQ	Preziosi	Negotiating before filing.
1/28/97	Ralene Hawkins d/b/a R.J.	Admin.	SW/AQ	Tack	Clean-up complete. Negotiating penalty.
2/07/97	Craig Burgin	Admin.	UT	Wornson	Compliance complete. Negotiating penalty.
2/19/97	Cliff's Place, Inc.	Admin.	WS	Hansen	Compliance initiated.

2/21/97	Farmland Foods, Inc. (Denison)	Permit Conditions	AQ	Preziosi	Negotiating before filing.
3/04/97	Wayne Johnson	Admin.	SW/AQ	Tack	Negotiating before filing.
3/20/97	Sylvan Acres	Admin.	WS	Hansen	Compliance initiated.
3/28/97	Paul Behounek; Todd	Admin.	SW/AQ	Tack	Negotiating before filing.
4/07/97	AGP, Inc. (Ag Processing, Inc.)	Permit Conditions	AQ	Preziosi	Negotiating before filing.
4/10/97	Lehigh Portland Cement	PSD Permit Denial	AQ	Kaizer	Negotiating before filing.
5/07/97	Delaware County Landfill, Inc.	Admin.	SW	Tack	Negotiating before filing.
6/06/97	Carroll's Foods of the Midwest	Const. Permit	WW	Clark	Negotiating before filing.
6/10/97	Kruger Seed Co.	Admin.	AQ	Preziosi	Negotiating before filing.
6/16/97	Ritchie Industries, Inc.	Admin.	AQ	Preziosi	Negotiating before filing.
6/17/97	Bob Luke d/b/a D & R Tree	Admin.	AQ/SW	Tack	Negotiating before filing.
6/30/97	Linwood Mining and Minerals	Admin. Order	AQ	Preziosi	Negotiating before filing.
7/22/97	CIPCO	Construction	AQ	Preziosi	Negotiating before filing.
7/22/97	Robert P. Frees; Elizabeth R.	Admin.	SW	Tack	Negotiating before filing.
7/30/97	Country Pumpkin	Admin.	WS	Hansen	Negotiating before filing.
7/31/97	Advanced Technologies Corp.	Admin.	AQ	Kaizer	Negotiating before filing.
8/01/97	Dodger Enterprises Co., Tire	Admin. Order	SW	Murphy	Proposed decision 6/26/98. Appeal to EPC.
8/05/97	Biovance Technologies	Admin.	AQ	Preziosi	Negotiating before filing.
8/08/97	Iowa Waste Systems, Inc.;	Admin.	SW	Tack	Negotiating before filing.
8/15/97	Ralston Purina Co.	Permit Conditions	AQ	Preziosi	Negotiating before filing.
8/18/97	Stellar Industries Inc.	Admin.	AQ	Preziosi	Negotiating before filing.
8/25/97	Joyce Wagner; Bruce Manthe	Admin.	WW	Murphy	9/97 - Case on hold pending compliance.
9/17/97	Keokuk Steel Castings	Admin.	AQ	Preziosi	Negotiating before filing.
9/25/97	Iowa Mold Tooling Co., Inc.	Admin.	AQ	Preziosi	Negotiating before filing.
9/26/97	Walnut Grove Water Co.	Admin.	WS	Hansen	Under review by WS section. Connection to
10/6/97	North Central Cooperative	Admin.	HC/WW	Murphy	3/98 - Site assessment proceeding.
10/6/97	Holnam, Inc.	Permit Conditions	AQ	Preziosi	Negotiating before filing.
10/7/97	Ottumwa, City of	Variance Denial	WW	Hansen	Informal meeting held 11/13/97. City
10/17/97	Iowa Select Farms, L.P. (Gast	Admin.	WW	Clark	**Proposed decision 5/29/98. Appealed to**
10/22/97	Lehigh Portland Cement Co.	Admin. Order	AQ	Preziosi	Negotiating before filing.
11/19/97	Troy Elevator, Inc.	Admin.	WW/HC	Murphy	Negotiating before filing.
12/02/97	Dows, City of	Admin. Order	WW	Hansen	F.O. 2 inspection 3/98. To be set for hearing.
12/03/97	Milton, City of	Admin.	SW/AQ	Tack	Negotiating before filing.
12/12/97	Donald E. Grell; Dodger	Notice of Intent to	SW	Murphy	**Proposed decision 6/26/98. Appeal to EPC.**
12/22/97	Dave and Kristi Castenson;	Harcourt Variance	WW	Hansen	**Hearing set for 7/20, 21/98. Hearings also**
1/07/98	Iowa Select Farms, L.P. (Sow	Admin.	WW/HC	Clark	**Proposed decision 5/29/98. Appealed to**
1/13/98	DeCoster Farms of Iowa	Admin.	WW	Clark	Negotiating before filing.
1/16/98	Pilgrim Heights Camp	NPDES Permit	WW	Hansen	Negotiating before filing.
1/23/98	Sac City	Admin.	WW	Hansen	Status report received from city's consultant.
1/29/98	Ralston Purina Company	Permit Conditions	AQ	Preziosi	Negotiating before filing.

1/30/98	Rockwell City	Admin.	WW	Hansen	Meeting on 4/22/98 with city's engineer
2/13/98	Ed Engelbrecht d/b/a E & E	Admin.	AQ/SW	Tack	Negotiating before filing.
2/26/98	Ira Cooley, Debby Cooley and	Admin.	AQ/SW	Tack	**Settlement offer pending.**
2/27/98	James Mills	Admin.	AQ/SW	Preziosi	**Settled. Awaiting penalty payment.**
2/27/98	Webb, City of	Admin.	AQ/SW	Preziosi	**Settled. Awaiting penalty payment.**
3/06/98	Enviro Safe Air, Inc. (98-AQ-	Admin.	AQ	Preziosi	Negotiating before filing.
4/03/98	Pictured Rocks Methodist	Admin.	WS	Hansen	Facility agreed to install chlorination. FO 2
4/03/98	Cooperative Oil Company;	Admin. Order	UT/WW	Wornson	Compliance initiated.
4/23/98	North Liberty, City of	Admin. Order	WW	Hansen	Negotiating before filing.
4/27/98	Weise Corporation	Admin.	AQ	Preziosi	Negotiating before filing.
4/28/98	ALCOA	Permit Conditions	WW	Hansen	Negotiating before filing.
5/04/98	Ben Haven Mobile Home Court	Admin.	WS	Hansen	Chlorination system installed by WS.
5/11/98	Teri Cook-Schlutz	401 Certification	WQ	Murphy	Negotiating before filing.
7/01/98	Ag Processing, Inc.	Permit Conditions	AQ	Kaizer	**Negotiations continue.**
7/27/98	Mitchell Dam Bar	Permit Conditions	WS	Hansen	Negotiating before filing.
7/28/98	Q.C. Metallurgical Laboratory	Laboratory	UT	Wornson	Negotiating before filing.
7/29/98	Eagle Lane Corporation	Admin.	WS	Hansen	**Water supply in compliance with**
7/29/98	Archer Daniels Midland	Permit Provisions	AQ	Preziosi	Negotiating before filing.
8/13/98	Obie's Hurstville Tap	Admin. Order	WS	Murphy	Negotiating before filing.
8/18/98	University of Iowa	Permit Conditions	WW	Hansen	Negotiating before filing.
9/15/98	Verton S. Miller	Admin.	AFO	Clark	New case.
9/16/98	Gary Lund Construction, Inc.	Admin.	AQ/SW	Tack	New case. Settlement offer pending.
9/22/98	Rosebar Tire Shredding Center;	Admin.	SW	Tack	New case.
9/22/98	Dwight Johnston	Admin.	AQ/SW	Tack	New case. Hearing date to be set.

Mr. Stokes reviewed the routine reports and noted that the Commission was provided materials from the last Client Contact Meeting along with draft Policy/Procedure Statements in the air quality area.

Discussion followed regarding the draft policy and procedure statements and one case on the referrals report.

INFORMATIONAL ONLY

PUBLIC PARTICIPATION

Lindsey Larson (ch. 65 rules)

Lindsey Larson, Iowa Farm Bureau, distributed copies of a draft resolution which was passed at an AACO meeting on October 13. He related that in the previous two rule adoptions process in 1995 and 1997, AACO submitted a report along with the department's rules, after a consensus had been reached by the AACO group. He read a portion of the draft resolution requesting the

Commission to defer a decision on the notice of intended action until 11/16/98 to allow further review and analysis of the rules proposed by the staff of the DNR. He related that the members of the AACO group who were present at their 10/13/98 meeting voted unanimously for the resolution. Mr. Larson noted that in September they received the first draft of the proposed rules and have met twice since then, but do not feel they have had sufficient time to analyze the rule changes and submit a report, or to build any kind of consensus with the other members of AACO. He stated that if the Commission approves the rules today there will be substantial changes proposed by AACO.

Chris Gault (ch. 65 rules)

Chris Gault, Iowa Farm Bureau, stated that she appreciates the working relationship the IFB has had with the Water Quality Bureau at DNR and would like to continue working with them on the proposed rules to reach consensus on as many items as possible. She said she understands there is concern with not reaching statutory guidelines on adoption of the rules by January 1, 1999 and possibly being sued, but she could not find where a state agency had ever been sued for not meeting statutory guidelines for adopting rules. Ms. Gault distributed copies of a paper entitled "Options for Rule Adoption under Administrative Procedures Act" which listed the following options: 1) Adopt rules for notice today and follow regular administrative rules schedule. Does not meet January 1, 1999 deadline without special late December EPC meeting - would have a January 19 adoption date; 2) Delay until November EPC meeting and follow regular administrative rules schedule. Does not meet January 1, 1999 deadline - would have a February 15 adoption date; 3) Delay until November or December EPC meeting and adopt on a dual track of emergency process and regular administrative rules process. This way the rules would go into effect immediately upon adoption, and public comment could still be taken into account by filing a notice of intended action. She stated that IFB has not established an official position on the draft rules the Commission will review today.

Mark Huston (SRF hardship grants)

Mark Huston, Columbus Junction City Council, spoke about the Intended Use Plan on Hardship Grants. He related that final approval to a grant will aid in allowing a joint sewer project between Columbus City, Fredonia, Columbus Junction and Louisa County. He stated that the City of Columbus Junction is in support of the grant and he would like to thank the Commission.

NOTICE OF INTENDED ACTION--CHAPTER 65, ANIMAL FEEDING OPERATIONS RULES

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will be asked to approve proceeding with a Notice of Intended Action to begin the formal rule making process on the amendments to the animal feeding operation rules. These

amendments are primarily to Chapter 65 to address the provisions of HF 2494 and other technical amendments recommended by the department. Other rules affected are Chapters 22, 23, 68, 70 and 72.

The department is coordinating with the Animal Agriculture Consulting Organization (AACO) and will provide a package of proposed amendments to the commissioners prior to the commission meeting.

(A copy of the draft rules is on file in the department's Records Center)

Mr. Stokes stated that staff are not asking the Commission to approve final rules but rather to approve a Notice of Intended Action to solicit public comments on the rules. He noted that he placed at the Commissioners work station a replacement of the draft rules which were previously sent to the Commission. He added that the rule revisions were made to take into consideration written comments that were received from the Iowa Farm Bureau. He related that the draft rules do not represent a consensus opinion of the AACO group and the department staff, and it would have to be considered a department staff recommendation at this point in time. He provided background about the past procedures with subcommittees of AACO in developing and revising the rules and noted that this time the process was reversed. He related that in the interest of time, formatting and letting people know up front what the department was doing staff felt this would be appropriate.

Mr. Stokes stated that staff met with AACO on July 23 to outline the law as staff saw it and to dialogue with AACO on various areas of the law. On September 11 staff provided AACO with a rough draft of the proposed rules. On October 2, AACO was provided a second draft of Ch. 65, at which time the department asked for their comments by October 9 and no comments were received, written or otherwise, other than their sharing some concerns about the process.

Mr. Stokes stated that at a fourth meeting, on October 13, with AACO, written comments prepared by the Farm Bureau were handed out. He related the department had not received those comments in advance and staff did not have a chance to dialogue with ACCO on those items. He added that he understands AACO did not take a formal position of endorsing those written comments one way or another, after having some discussion about the Resolution presented by Mr. Larson. He stated that after receiving the IFB comments on October 13, staff reviewed those comments and made adjustments to the rules which have been incorporated into the revised draft rules distributed to the Commission today.

Mr. Stokes summarized the comments received and changes made. He covered key issues of the rules on alternative language to compute animal weight capacities; incorporation & injection; and manure application. He related that staff would like to further dialogue with AACO for a separate, distinct rulemaking after the first of the year, in regard to manure application.

Mr. Stokes noted that the issue before the Commission is whether or not to take the rules forward to solicit public comment, which provides for those who have to live with these rules to have public comment. He stressed that staff will continue to work with AACO to refine the

rules. He stated that rather than choosing Option 3 (Emergency Rulemaking), offered by Chris Gault, he would recommend to proceed through normal rulemaking. Mr. Stokes noted that if the rules are delayed the department would have to operate under the interpretation of law, which becomes effective January 1.

Terrance Townsend asked if delaying the rules would improve the quality enough to have to go back through another notice of intended action.

Mr. Stokes stated that even if the staff and AACO achieved more of a consensus amongst themselves, it does not mean that other people outside of AACO and the department may not have their own opinions about the items on which AACO and the department achieved consensus or conceptual agreement. He added there is a stigma that once staff develops a rulemaking it is set in concrete and staff does not change anything, but that is not true. He mentioned previous instances where changes have been made by the department after the rules were drafted.

Motion was made by Rita Venner to defer action on this agenda item until the November Commission meeting. Seconded by Dean McWilliams.

Rita Venner stated that she feels there has to be more input from the AACO group as they are in the trenches and know the situation out there. She added that these rules are important and relating back to several recent sets of complex rules they were not as clear as she would like to have seen them. She added that it is more difficult to make additional changes later on.

Rozanne King stated that she supports Commissioner Venner's position, adding that she read the rules and does not completely understand them and she would like to do some additional reading so she would feel more comfortable with it.

Randal Giannetto arrived at this point in the meeting (11:15 a.m.)

Charlotte Mohr concurred with Commissioners Venner and King, adding that there has been a good working relationship with AACO and working together is the way to solve this. She related that she would support deferral of the item.

Director Wilson stated that is not a good decision to make because a Notice of Intended Action is only that and there will be many days ahead to continue to work with the AACO group, adding that everyone has the opportunity to make a comment whenever the rule is out on notice. He related that he does not see where a legitimate argument has been made to delay the rules to the next meeting, and to the contrary meetings between AACO, the Farm Bureau and any other group can continue in the days ahead. Director Wilson stated that while the rule is out to Notice of Intended Action the dialogue does not stop; he stressed that is when the public input actually begins. He noted that decision is for the Commission to make but it is not a good decision to make, in his opinion. Director Wilson pointed out that if the information provided to staff on October 13 had been received on October 9, which was the requested date, staff would have had

the opportunity to go back to AACO on October 13 and work out a lot of those questions. He related that the 30-day delay may not solve the possible differences of opinion between these groups.

Kathryn Murphy stated that the Commission should take into consideration the fact the rules are already going to be late, so to go with the proposal of proceeding with the rules today it would make a statement of trying to work hard to get it done. She added that she would disagree with deferral of the item.

Discussion followed in regard to allowing 30 days for additional work with AACO.

Chairman Ehm commented that the AACO group is a consultant group. He noted that this rule has had a much tighter timeline than HF 519 and the department drafted some rules to have a base to begin from this time. He related that the last time AACO produced rules at the same time the department did but time does not lend itself to do that this time. He stated that he is supportive of the procedure the department went through to get to this point, adding that the department has made the effort to work with AACO on a number of occasions and the consulting portion of the rule was available and continues to be available. Chairman Ehm stated that he prefers to move ahead.

Dean McWilliams stated that the department and Commisson have established a working relationship with AACO and it would be a lot cleaner in the end to cooperate with them.

Chairman Ehm requested a roll call vote on Commissioner Venner's motion to defer the item until next month. "Aye" vote was cast by Commissioners King, McWilliams, Mohr, and Venner. "Nay" vote was cast by Commissioners Giannetto, Murphy, Townsend, and Ehm. Motion failed on a vote of 4-Aye to 4-Nay.

MOTION FAILED

Motion was made by Terrance Townsend to approve Notice of Intended Action--Chapter 65, Animal Feeding Operations Rules. Seconded by Kathryn Murphy. Roll call vote was taken and "Aye" vote was cast by Commissioners Murphy, Townsend, Giannetto, and Ehm. "Nay" vote was cast by Commissioners King, McWillliams, Mohr, and Venner. Motion failed on a vote of 4-Aye to 4-Nay.

MOTION FAILED

INTENDED USE PLAN - WASTEWATER SRF REVISION, HARDSHIP GRANTS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

A revised Intended Use Plan (IUP) for the FY 1998 State Revolving Fund is recommended for approval. The Environmental Protection Commission approved the original IUP in May, 1998. That IUP identified projects proposed to receive SRF loan assistance in the FY 98 SRF program. Funds have become available from EPA for a rural community hardship assistance program. An EPA requirement is that states must identify projects in the IUP for the SRF program.

The recommended IUP identifies available hardship assistance money and proposed recipients. EPA and the amendment provision in the IUP required opportunity for input. Several comments were received and a responsiveness summary was prepared and appears in the IUP. Approval by the commission will allow the department to apply to EPA for the federal grant funds to initiate this program.

INTRODUCTION

The State of Iowa herewith submits its Intended Use Plan (IUP) for all funds available in the State Revolving Fund (SRF) during State Fiscal Year (FY) 1998. This plan is based on receiving a capitalization grant from the federal fiscal year (FFY) 1998 Title VI funds appropriated by the U.S. Congress for the Iowa State Revolving Fund. In addition, the SFY 1998 SRF will include the State's required 20% match for this grant. These funds will be added to the SRF funds provided in previous years. This plan also includes provision for the state to receive from EPA a hardship rural community program grant for distribution to rural unsewered communities.

SRF FUNDS

This Intended Use Plan is based upon federal funds available for fiscal year (FY) 1998 by Congressional appropriation. The Clean Water Act authorized program funding for FFY 1989 through 1994. In addition, appropriations were made for FFY 1995 through 1997. The State has received all capitalization grants available to the state from appropriations made for these years. The Clean Water Act has not been reauthorized at this time, but Congress has appropriated funds for FFY 1998. Of this appropriation, Iowa has been allotted $18,224,613 for FFY 1998.

In addition, Iowa currently has $156,819 that has been accumulated from construction grant project deobligations under Section 205 of the Clean Water Act. There are no remaining grant projects which can utilize these funds as grants. Therefore, as provided by the Clean Water Act, the state will request that these funds be transferred to the SRF loan program and will include them in the FY 1998 capitalization grant request. Therefore, total Federal SRF funds for FFY 1998 will be $18,381,432.

It is the intent of this plan to provide funds to loan applicants with the FY 1998 capitalization grant, the state match and funds currently in the SRF loan program. A capitalization grant of $18,381,432 requires a state match of 20% or $3,676,287 for a total of $22,057,719 in new SRF funds. Of this amount, $735,257 is committed to program administration costs, leaving $21,322,462 in new funds for project loans. Chart

1 Part 4 shows a total loan need of $41,642,000 for FY 1998 projects. Therefore, $20,319,538 of excess reserve funds or other funds currently available in the SRF will be necessary to fund the projects on Chart 1 Part 4. This amount is available and can be used for this purpose.

HARDSHIP GRANT FUNDS

In 1996, the U.S. Congress through the Federal Appropriations Act provided $50 million nationwide for grants to provide assistance for wastewater treatment and collection needs for economically disadvantaged communities also known as the Hardship Grant program. The State of Iowa has been allotted $837,100 from this appropriation. States are required to provide a 5% matching fund for its allotment. This match will be provided by sources outside the SRF which do not require state appropriations or bond sales. Community Development Block Grants (CDBG) administered by the Iowa Department of Economic Development are designated as the acceptable source of the match.

To enable administration of these funds by the DNR, SRF loans of 15% of the cost eligible for loan assistance will be required for each project. Streamlined SRF regulations also apply to the project when a SRF loan of at least 15% of eligible costs is obtained. In March 1998, the State of Iowa provided a Notice of Intent to EPA to apply for financial assistance to fund it's proposed Hardship Grants program. The FY 1998 IUP adopted on May 18, 1998, set aside $132,000 for hardship grant SRF loan shares. Federal guidance for state administration of hardship grants calls for coordination with the SRF loan program by inclusion of the list of projects in the IUP.

The approved IUP allowed for amendment to include coordination with this grant program by inserting fundable applicants in Chart 1 Part 5. Hardship assistance applications were solicited on July 15. 1998. According to the invitation notice, five complete applications were received through August 15, 1998. This amended IUP shows in Chart 1, Part 5 that $428,000 is required for SRF loans for the priority projects to use all hardship assistance funds.

FISCAL YEAR 1998 PROJECT PRIORITY LIST

The management of the state's revolving fund loan program, including the development of a priority list of projects for loan assistance, has been developed according to DNR rules IAC 567--92 (455B). With the additional FY 1998 funds, this IUP will project loan funding assistance for applications in priority order determined by point source rating criteria defined in IAC 567--91 (455B).

(A copy of the complete IUP, Responsiveness Summary and Charts is on file in the department's Records Center)

Mr. Stokes reviewed the Hardship Grant Program and Responsiveness Summary. He noted that this proposal would provide the money to the City of Columbus City and Fredonia, which would

take all of the available funds for the hardship grant. He related that there is a contingency list which includes Mt. Union, East Peru, and Rodney in the event Columbus City or Fredonia subsequently choose not to avail themselves of these funds or drop out of the program, or do not use all of the funds.

Motion was made by Terrance Townsend to approve the Intended Use Plan - Wastewater SRF Revisions for Hardship Grants as presented. Seconded by Rita Venner.

Brief discussion followed on how the towns are categorized and how they qualify for the hardship grants.

Vote on the motion carried unanimously.

APPROVED AS PRESENTED

FINAL RULE--CHAPTERS 22, 23 AND 25, HOSPITAL, MEDICAL AND INFECTIOUS WASTE INCINERATORS, AND MUNICIPAL WASTE COMBUSTOR STANDARDS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will be asked to approve the amendments to Chapter 22, "Controlling Pollution," Chapter 23, "Emission Standards for Contaminants," and Chapter 25, "Measurement of Emissions," Iowa Administrative Code.

The purpose of this rule making is to approve state regulations for existing hospital/medical/infectious waste incinerators (HMIWI), as well as, adopt by reference and make corrections to the NSPS for HMIWI and municipal waste combustors (MWC), and update adoption by reference citations. The department has established that there are sources in the state subject to these requirements. In accord with the delegation agreements previously entered into with EPA, the department herein considers accepting delegation of these standards. The standards are no more stringent then those specified in the federal regulations.

On September 15, 1997, the U.S. Environmental Protection Agency (EPA) issued regulations that will affect new and existing incinerators that burn hospital and/or medical/infectious waste, as 40 CFR Part 60 Subpart Ec and Ce. The new regulations require facilities such as hospitals/health care facilities, veterinarians, crematoriums, research labs, and commercial facilities with these incinerators to reduce emissions of certain pollutants, which are known to have a negative affect on both public health and welfare. The regulations aim to reduce the emissions from these incinerators by 75 to 98 percent.

Four changes have been made to the Notice of Intended Action as a result of comments received during the public comment period. All changes were made to Item 7 of this rule making. One

clarifies the use Standard Metropolitan Statistical Areas for remote HMIWI designations. Another clarifies monitoring requirements for remote HMIWIs. Another change combines "medical or infectious waste" to state "medical/infectious waste," so that it is expressed as one type of waste, as it is defined in the rule making. The last change excludes cremation of human corpses, remains, and anatomical parts from the definition of "Medical/infectious waste."

ENVIRONMENTAL PROTECTION COMMISSION [567]
Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission hereby adopts and files amendments to Chapter 22, "Controlling Pollution," Chapter 23, "Emission Standards for Contaminants," and Chapter 25, "Measurement of Emissions," Iowa Administrative Code.

These amendments establish regulations for existing hospital/medical/infectious waste incinerators (HMIWI), adopt by reference the NSPS for Hospital Medical Infectious Waste Incinerators (HMIWI) and municipal waste combustors (MWC), and update adoption by reference citations. The department has established that there are sources in the state subject to these requirements. In accordance with the delegation agreements previously entered into with EPA, the department herein considers accepting delegation of these standards. The standards are no more stringent than those specified in the federal regulations.

On September 15, 1997, the EPA issued regulations that will affect new and existing incinerators that burn hospital or medical/infectious waste, or a combination thereof, as 40 CFR Part 60 Subparts Ec and Ce. The new regulations require organizations with these incinerators to reduce emissions of certain pollutants, which are known to have a negative effect on both public health and welfare. The regulations aim to reduce the emissions from these incinerators by 75 to 98 percent nationally.

The Notice of Intended Action was published in the Iowa Administrative Bulletin on August 26, 1998, as ARC 8275A. A public hearing was held on September 25, 1998. Four changes were made to Item 7, as noted below, from comments received during the public comment period.

Item 1 adds a reference to emission guidelines, so that equipment required as a result of a specific emission guideline cannot be classified as an exemption from construction permitting.

Item 2 amends the date for 40 CFR Part 60 to correspond with the federal promulgation of the NSPS and EG for hospital/medical/infectious waste incinerators. The Iowa Administrative Code citation for emission guidelines was added to defer some applicable sources from a Title V operating permit.

Item 3 amends the date for 40 CFR Part 60 to correspond with the federal promulgation of the NSPS for hospital/medical/infectious waste incinerators.

Item 4 revises the adoption by reference of the federal standards of performance for new stationary sources for municipal waste combustors with a capacity greater than 225 megagrams per day of municipal solid waste.

Item 5 adopts by reference the federal standards of performance for new stationary sources for municipal waste combustors with a capacity greater than 35 megagrams per day of municipal solid waste, for which construction commenced after September 20, 1994, or modification or reconstruction after June 19, 1996; and hospital/medical/infectious waste incinerators, for which construction commenced after June 20, 1996, or modification after March 16, 1998.

Item 6 amends the date for 40 CFR Part 60 to correspond with the federal promulgation of the EG for hospital/medical/infectious waste incinerators.

Item 7 adds the emission guidelines and compliance schedule for hospital/medical/infectious waste incinerators for which construction commenced on or before June 20, 1996. Four changes have been made to the Notice of Intended Action as a result of comments received during the public comment period. One clarifies the use Standard Metropolitan Statistical Areas for remote HMIWI designations. Another clarifies monitoring requirements for remote HMIWIs. Another change combines "medical or infectious waste" to state "medical/infectious waste," so that it is expressed as one waste, as it is defined in the rule making. The last change excludes cremation of human corpses, remains, and anatomical parts from the definition of "Medical/infectious waste."

Item 8 amends the date for 40 CFR Part 60 to correspond with the federal promulgation of the NSPS and EG for hospital/medical/infectious waste incinerators.
These amendments may impact small business.
These amendments are intended to implement Iowa Code section 455B.133.
These amendments will become effective December 23, 1998.
The following amendments are adopted.

ITEM 1. Amend subrule 22.1(2), introductory paragraph, as follows:

22.1(2) Exemptions. The provisions of this rule shall not apply to the following listed equipment or control equipment unless review of the equipment or the control equipment is necessary to comply with rule 22.4(455B), prevention of significant deterioration requirements; rule 22.5(455B), special requirements for nonattainment areas; 567—subrule 23.1(2), new source performance standards (40 CFR Part 60 NSPS); 567—subrule 23.1(3), emission standards for hazardous air pollutants (40 CFR Part 61 NESHAP); ~~or~~ 567—subrule 23.1(4), emission standards for hazardous air pollutants for source categories (40 CFR Part 63 NESHAP); or 567—subrule 23.1(5), emission guidelines, in which case a permit must be obtained. If equipment is permitted under the provisions of rule 22.8(455B), then no other exemptions shall apply to that equipment.

ITEM 2. Amend subrule 22.101(2) as follows:

22.101(2) Title V deferred stationary sources. The requirement to obtain a Title V permit is deferred for all sources listed in 22.101(1) that are not major sources, affected sources,

or solid waste incineration units required to obtain a permit pursuant to Section 129(e) of the Act, until December 9, 1999, unless by the final promulgation of a federal standard to which the source is subject under the provisions of 40 CFR Part 60 (as amended through ~~June 12, 1997~~ September 15, 1997), ~~or~~ 40 CFR Part 63 (as amended through August 11, 1997), or 567—subrule 23.1(5), a source is required to obtain a Title V permit. Each source receiving a deferral under the provisions of this rule shall submit a Title V permit application to the department within 12 months of the date when the requirement to obtain a Title V permit is no longer deferred for that source.

ITEM 3. Amend subrule 23.1(2), introductory paragraph, as follows:

23.1(2) New source performance standards. The federal standards of performance for new stationary sources, as defined in 40 Code of Federal Regulations Part 60 as amended or corrected through ~~June 12, 1997~~September 15, 1997, and 40 CFR Part 503 as adopted on October 25, 1995, are adopted by reference, except § 60.530 through § 60.539b, and shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C), quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

ITEM 4. Amend paragraph 23.1(2)"nnn" as follows:

nnn. Municipal waste combustors. Unless exempted, a municipal waste combustor with a capacity greater than ~~250 tons~~ 225 megagrams per day of municipal solid waste ~~or refuse derived fuel~~ for which construction~~, modification, or reconstruction~~ is commenced after December 20, 1989, and on or before September 20, 1994, and modification or reconstruction is commenced after December 20, 1989, and on or before June 19, 1996. (Subpart Ea)

ITEM 5. Further amend subrule 23.1(2) by adding the following new paragraphs:

sss. Municipal waste combustors. Unless exempted, a municipal waste combustor with a capacity greater than 35 megagrams per day of municipal solid waste for which construction is completed after September 20, 1994, or for which modification or reconstruction is commenced after June 19, 1996. (Subpart Eb)

ttt. Hospital/medical/infectious waste incinerators. Unless exempted, a hospital/medical/infectious waste incinerator for which construction is commenced after June 20, 1996, or for which modification is commenced after March 16, 1998. (Subpart Ec)

ITEM 6. Amend subrule 23.1(5), introductory paragraph, as follows:

23.1(5) Emission guidelines. The emission guidelines and compliance times for existing sources, as defined in 40 Code of Federal Regulations Part 60 as amended through ~~June 12, 1997~~September 15, 1997, shall apply to the following affected facilities. The corresponding 40 CFR Part 60 subpart designation is in parentheses. The control of the designated pollutants will be in accordance with federal standards established in Sections 111 and 129 of the Act and 40 CFR Part 60, Subpart B (Adoption and Submittal of State Plans for Designated Facilities), and the applicable subpart(s) for the existing source. Reference test methods (Appendix A), performance specifications (Appendix B), determination of emission rate change (Appendix C),

quality assurance procedures (Appendix F) and the general provisions (Subpart A) of 40 CFR Part 60 also apply to the affected facilities.

ITEM 7. Amend subrule 23.1(5) by adding the following new paragraph "b":

b. Emission guidelines for hospital/medical/infectious waste incinerators (Subpart Ce). This paragraph contains emission guidelines and compliance times for the control of certain designated pollutants from hospital/medical/infectious waste incinerator(s) (HMIWI) in accordance with Subparts Ce and Ec (Standards of Performance for Hospital/Medical/Infectious Waste Incinerators) of 40 CFR Part 60.

(1) Definitions. For the purpose of paragraph 23.1(5) "b," the definitions have the same meaning given to them in the Act and 40 CFR Part 60, Subparts A, B, and Ec, if not defined in this subparagraph.

"Hospital/medical/infectious waste incinerator" or "HMIWI" means any device that combusts any amount or combination of hospital or medical/infectious waste.

"Hospital waste" means discards generated at a hospital, except unused items returned to the manufacturer. The definition of hospital waste does not include human corpses, remains, and anatomical parts that are intended for interment or cremation.

"Large HMIWI" means:

1. An HMIWI whose maximum design waste burning capacity is more than 500 pounds per hour; or

2. A continuous or intermittent HMIWI whose maximum charge rate is more than 500 pounds per hour; or

3. A batch HMIWI whose maximum charge rate is more than 4,000 pounds per day.

"Medical/infectious waste" means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals that is listed in numbered paragraphs "1" through "7" of this definition. The definition of medical/infectious waste does not include hazardous waste identified or listed under the regulations in 40 CFR Part 261; household waste, as defined in 40 CFR § 261.4(b)(1); ash from incineration of medical/infectious waste, once the incineration process has been completed; human corpses, remains, and anatomical parts that are intended for interment or cremation; and domestic sewage materials identified in 40 CFR § 261.4(a)(1).

1. Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate, and mix cultures.

2. Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy or other medical procedures, and specimens of body fluids and their containers.

3. Human blood and blood products including: liquid waste human blood, products of blood, items saturated or dripping with human blood; or items that were saturated or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers, which were used or intended for use in patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category.

4. Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips.

5. Animal waste including contaminated animal carcasses, body parts, and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals.

6. Isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates, or secretions from humans who are isolated to protect others from certain highly communicable diseases, or from isolated animals known to be infected with highly communicable diseases.

7. Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes, and scalpel blades.

"Medium HMIWI" means:

1. An HMIWI whose maximum design waste burning capacity is more than 200 pounds per hour but less than or equal to 500 pounds per hour; or

2. A continuous or intermittent HMIWI whose maximum charge rate is more than 200 pounds per hour but less than or equal to 500 pounds per hour; or

3. A batch HMIWI whose maximum charge rate is more than 1,600 pounds per day but less than or equal to 4,000 pounds per day.

"Remote HMIWI" means a small HMIWI meeting the following conditions:

1. Located 50 miles from the boundary of the nearest standard metropolitan statistical area. The SMSA boundary is established by the political borders of the counties, provided in the definition of a SMSA, which are listed in parentheses.

2. Burns less than 2,000 lb/week of hospital waste and medical/infectious waste.

"Small HMIWI" means:

1. An HMIWI whose maximum design waste burning capacity is less than or equal to 200 pounds per hour; or

2. A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to 200 pounds per hour; or

3. A batch HMIWI whose maximum charge rate is less than or equal to 1,600 pounds per day.

"Standard metropolitan statistical area" or "SMSA" means any areas listed in OMB Bulletin No. 93-17 entitled "Revised Statistical Definitions for Metropolitan Areas" dated June 30, 1993. The following SMSAs are in Iowa or within 50 miles of Iowa border: Cedar Rapids (Linn County, IA), Davenport-Moline-Rock Island (Henry County, IL; Rock Island County, IL; Scott County, IA), Des Moines (Dallas County, Polk County, Warren County), Dubuque (Dubuque County), Iowa City (Johnson County), La Crosse (Houston County, MN; La Crosse County, WI), Omaha-Council Bluffs (Cass County, NE; Douglas County, NE; Pottawattamie County, IA; Sarpy County, NE; Washington County, NE), Rochester (Olmsted County, MN), St. Joseph (Andrew County, MO; Buchanan County, MO), Sioux City (Dakota County, NE; Woodbury County, IA), Sioux Falls (Lincoln County, SD; Minnehaha County, SD), and Waterloo-Cedar Falls (Black Hawk County).

(2) Designated facilities.

1. Except as provided in numbered paragraphs "2" through "8" of this subparagraph, the designated facility to which the guidelines apply is each individual HMIWI for which construction was commenced on or before June 20, 1996.

2. A combustor is not subject to this paragraph during periods when only pathological waste, low-level radioactive waste, or chemotherapeutic waste, or any combination thereof, (defined in 40 CFR § 60.51c) is burned, provided the owner or operator of the combustor does the following: notifies the director of an exemption claim, and keeps records on a calendar-quarter basis of the periods of time when only pathological waste, low-level radioactive waste, or chemotherapeutic waste, or any combination thereof, is burned.

3. Any co-fired combustor (defined in 40 CFR § 60.51c) is not subject to this paragraph if the owner or operator of the co-fired combustor: notifies the director of an exemption claim; provides an estimate of the relative weight of hospital waste, medical/infectious waste, other fuels, and other wastes to be combusted; and keeps records on a calendar-quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor.

4. Any combustor required to have a permit under Section 3005 of the Solid Waste Disposal Act is not subject to paragraph 23.1(5)"b."

5. Any combustor which meets the applicability requirements under Subpart Cb, Ea, or Eb of 40 CFR Part 60 is not subject to paragraph 23.1(5)"b."

6. Any pyrolysis unit (defined in 40 CFR § 60.51c) is not subject to paragraph 23.1(5)"b."

7. Cement kilns firing hospital or medical/infectious waste, or any combination thereof, are not subject to paragraph 23.1(5) "b."

8. Physical or operational changes made to an existing HMIWI unit solely for the purpose of complying with paragraph 23.1(5)"b" are not considered a modification and do not result in an existing HMIWI becoming subject to the provisions of 40 CFR Part 60, Subpart Ec.

9. The Title V operating permit requirements, as stated in 567—subrule 22.101(1), are applicable to designated facilities subject to paragraph 23.1(5)"b." They must apply for an operating permit as specified by 567—subrule 22.105(1) no later than September 15, 2000.

(3) Emission limits.

1. An HMIWI must not exceed the emission limits for each pollutant listed in Table 1, except as provided for in numbered paragraph "2" of subparagraph 23.1(5)"b"(3).

2. A remote HMIWI must not exceed the emission limits for each pollutant listed in Table 2. The 2,000 lb/week limitation does not apply during performance tests.

3. On or after the date on which the initial performance test is completed or is required to be completed under 40 CFR Section 60.8, whichever comes first, no owner or operator of an affected facility shall cause any gases to be discharged into the atmosphere from the stack of the affected facility that exhibit greater than 10 percent opacity (6-minute block average).

Table 1. Emission Limits for Small, Medium, and Large HMIWI

	Emission Limits for HMIWI Size		
Pollutant/Units (7 percent oxygen, dry basis)	**Small**	**Medium**	**Large**
Particulate matter			
Milligrams per dry standard cubic meter (grains per dry standard cubic foot)	115 (0.05)	69 (0.03)	34 (0.015)
Carbon monoxide			
Parts per million by volume	40	40	40
Dioxins/furans			
Nanograms per dry standard cubic meter total dioxins/furans (grains per billion dry standard cubic feet), or	125 (55)	125 (55)	125 (55)
Nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet)	2.3 (1.0)	2.3 (1.0)	2.3 (1.0)
Hydrogen chloride			
Parts per million by volume, or	100	100	100
Percent reduction	93	93	93
Sulfur dioxide			
Parts per million by volume	55	55	55
Nitrogen oxides			
Parts per million by volume	250	250	250
Lead			
Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet), or	1.2 (0.52)	1.2 (0.52)	1.2 (0.52)
Percent reduction	70	70	70
Cadmium			
Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet), or	0.16 (0.07)	0.16 (0.07)	0.16 (0.07)
Percent reduction	65	65	65
Mercury			
Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet), or	0.55 (0.24)	0.55 (0.24)	0.55 (0.24)
Percent reduction	85	85	85

Table 2. Emissions Limits for Remote HMIWI

Pollutant	**Units (7 percent oxygen, dry basis)**	**Emission Limit**
Particulate matter	Milligrams per dry standard cubic meter (grains per dry standard cubic foot)	197 (0.086)
Carbon monoxide	Parts per million by volume	40
Dioxins/furans	Nanograms per dry standard cubic meter total	800

Pollutant	Units (7 percent oxygen, dry basis)	Emission Limit
	dioxins/furans (grains per billion dry standard cubic feet), or	(350)
	Nanograms per dry standard cubic meter TEQ (grains per billion dry standard cubic feet)	15 (6.6)
Hydrogen chloride	Parts per million by volume	3100
Sulfur dioxide	Parts per million by volume	55
Nitrogen oxides	Parts per million by volume	250
Lead	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	10 (4.4)
Cadmium	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	4 (1.7)
Mercury	Milligrams per dry standard cubic meter (grains per thousand dry standard cubic feet)	7.5 (3.3)

(4) Operator training and qualification requirements. Designated facilities shall meet the requirements for operator training and qualification listed in 40 CFR § 60.53c within one year from EPA's approval of the state's 111(d) plan for HMIWI.

(5) Waste management requirements. Designated facilities shall meet the requirements for a waste management plan listed in 40 CFR § 60.55c within 34 months from EPA's approval of the state's 111(d) plan for HMIWI.

(6) Inspection requirements. Each remote HMIWI subject to the emission limits under numbered paragraph "2" of subparagraph 23.1(5)"b"(3) must conduct an initial equipment inspection within one year from EPA's approval of the state's 111(d) plan for HMIWI, and equipment inspections annually, no more than 12 months after the previous inspection. The facility must complete all necessary repairs within ten operating days following an inspection. If the repairs cannot be accomplished within this period, then the owner or operator must obtain written approval from the department requesting an extension. All inspections shall include the following:

1. Inspect all burners, pilot assemblies, and pilot sensing devices for proper operation, and clean pilot flame sensor as necessary;
2. Ensure proper adjustment of primary and secondary chamber combustion air, and adjust as necessary;
3. Inspect hinges and door latches, and lubricate as necessary;
4. Inspect dampers, fans, and blowers for proper operation;
5. Inspect HMIWI door and door gaskets for proper sealing;
6. Inspect motors for proper operation;
7. Inspect primary chamber refractory lining, and clean and repair or replace lining as necessary;
8. Inspect incinerator shell for corrosion and hot spots;
9. Inspect secondary/tertiary chamber and stack, and clean as necessary;
10. Inspect mechanical loader, including limit switches, for proper operation, if applicable;

11. Visually inspect waste bed (grates), and repair or seal as appropriate;

12. For the burn cycle that follows the inspection, document that the incinerator is operating properly, and make any necessary adjustments;

13. Inspect air pollution control device(s) for proper operation if applicable;

14. Inspect waste heat boiler systems to ensure proper operation if applicable;

15. Inspect bypass stack components;

16. Ensure proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment; and

17. Generally observe whether the equipment is maintained in good operating condition.

(7) Compliance, performance testing, and monitoring requirements. Except as provided in subparagraphs 23.1(5)"b"(8) and (9), designated facilities shall meet the requirements for compliance and performance testing listed in 40 CFR § 60.56c (excluding the fugitive emissions testing requirements under 40 CFR § 60.56c(b)(12) and (c)(3)) and the requirements for monitoring listed in 40 CFR § 60.57c.

(8) Compliance and performance testing for remote HMIWI. Remote HMIWI shall meet the following compliance and performance testing requirements:

1. Conduct the performance testing requirements in 40 CFR § 60.56c(a), (b)(1) through (b)(9), (b)(11) (Hg only), and (c)(1). The 2,000 lb/week limitation under numbered paragraph "2" of subparagraph 23.1(5)"b"(3) does not apply during performance tests.

2. Establish maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emission limits.

3. Following the date on which the initial performance test is completed or is required to be completed under 40 CFR § 60.8, whichever date comes first, remote HMIWI must not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as three-hour rolling averages (calculated each hour as the average of the previous three operating hours) at all times except during periods of startup, shutdown and malfunction. Operating parameter limits do not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameter(s).

4. Except as provided in numbered paragraph "5" of subparagraph 23.1(5)"b"(8), operation of the remote HMIWI above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a three-hour rolling average) simultaneously shall constitute a violation of the PM, CO, and dioxin/furan emission limits.

5. The owner or operator of the remote HMIWI may conduct a repeat performance test within 30 days of violation of applicable operating parameter(s) to demonstrate that the designated facility is not in violation of the applicable emission limit(s). Repeat performance tests conducted pursuant to this paragraph must be conducted using the identical operating parameters that indicated a violation under numbered paragraph "4" of subparagraph 23.1(5)"b"(8).

(9) Monitoring requirements for remote HMIWI. Remote HMIWI must meet the following monitoring requirements:

1. Install, calibrate (to manufacturers' specifications), maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation.

2. Install, calibrate (to manufacturers' specifications), maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI.

3. The owner or operator of a designated facility shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hours per day for 90 percent of the operating days per calendar quarter that the designated facility is combusting hospital or medical/infectious waste, or a combination thereof.

(10) Reporting and recordkeeping requirements. Designated facilities shall meet the reporting and record keeping requirements listed in 40 CFR § 60.58c(b), (c), (d), (e), and (f), excluding 40 CFR § 60.58c(b)(2)(ii) (fugitive emissions) and (b)(7) (siting), except for remote HMIWI.

(11) Reporting and record keeping requirements for remote HMIWI. Remote HMIWI must meet the following reporting and record keeping requirements:

1. Maintain records of the annual equipment inspections, any required maintenance, and any repairs not completed within ten days of an inspection; and

2. Submit an annual report containing information recorded under numbered paragraph "1" of subparagraph 23.1(5)"b"(11) no later than 60 days following the year in which data were collected. Subsequent reports shall be sent no later than 12 calendar months following the previous report (once the unit is subject to permitting requirements under Title V of the Act, the owner or operator must submit these reports semiannually). The report shall be signed by the facility's manager.

(12) Compliance times for designated facilities planning to retrofit. Designated facilities planning to retrofit existing HMIWI shall comply with the emission limits specified in subparagraph 23.1(5)"b"(3) within three years from EPA's approval of the state's 111(d) plan for HMIWI, but not later than September 16, 2002. To ensure compliance, these facilities must also comply with the following increments of progress:

1. Submit construction permit application to the department, as required by rule 567 – 22.1(455B), to outline the addition of control equipment and the modification of existing processes within one year from EPA's approval of the state's 111(d) plan for HMIWI;

2. Award contracts for control systems or process modifications, or orders for purchase of components within 18 months from EPA's approval of the state's 111(d) plan for HMIWI;

3. Initiate on-site construction or installation of the air pollution control device(s) or process changes within two years from EPA's approval of the state's 111(d) plan for HMIWI;

4. Complete on-site construction or installation of air pollution control device(s) or process changes within 33 months from EPA's approval of the state's 111(d) plan for HMIWI; and

5. Complete initial compliance test(s) on the air pollution control equipment within 34 months from EPA's approval of the state's 111(d) plan for HMIWI.

(13) Compliance times for designated facilities planning to shut down. Designated facilities planning to shut down an existing HMIWI shall shut down within one year from EPA's approval of the state's 111(d) plan for HMIWI. Designated facilities may request an extension from the department to operate the HMIWI for up to two additional years. The request for extension must be submitted to the department within nine months from EPA's approval of the state's 111(d) plan for HMIWI and include the following:

1. Documentation to support the need for the requested extension;
2. An evaluation of the option to transport the waste off site to a commercial medical waste treatment and disposal facility on a temporary or permanent basis; and
3. A plan that documents measurable and enforceable incremental steps of progress to be taken toward compliance with paragraph 23.1(5)"b," including final compliance date which can be no later than September 16, 2002.

ITEM 8. Amend subrule 25.1(10), paragraph "a," as follows:

a. An affected source is subject to a new source performance standard promulgated in 40 CFR Part 60 as amended through ~~June 12, 1997~~ September 15, 1997.

_____
Date

_____
Larry J. Wilson, Director

Mr. Stokes explained details of the rules.

Motion was made by Rita Venner to approve Final Rule--Chapter 22, 23 & 25, Hospital, Medical and Infectious Waste Incinerators, and Municipal Waste Combustor Standards. Seconded by Rozanne King. Motion carried unanimously.

APPROVED AS PRESENTED

ADOPTED AND FILED EMERGENCY--CHAPTER 137, (BROWNFIELDS RULES) IOWA LAND RECYCLING PROGRAM AND RESPONSIBILITY ACTION STANDARDS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

1997 Iowa Code Chapter 455H., entitled the "Iowa Land Recycling and Environmental Remediation Standards Act", and specifically section 455H.502, required the Department to work jointly with a technical advisory committee (TAC) to develop rules implementing the act. The legislation required the Commission to adopt rules by October 1, 1998.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 12, 1998. Three public hearings were held in Des Moines, Dennison and Cedar Rapids. Department staff has prepared a summary of the oral and written comments and the department's responses to them.

The Department staff met with the Technical Advisory Committee on September 23, 1998 to review the comments and suggested revisions to the proposed rules. The TAC and the Department reached consensus and support the revisions which are proposed today.

The department recommends the Commission adopt the rules and make them effective upon filing with the administrative rules coordinator rather than the normal 35 days from the date of filing. The Department would expect to file the rules no later than Friday, October 23, 1998. Iowa Code section 17A..5(2)"b"(2) authorizes the agency to make rules effective upon filing based on a determination that the "...rule confers a benefit or removes a restriction on the public or some segment thereof...".

ENVIRONMENTAL PROTECTION COMMISSION (567)
Adopted and Filed Emergency After Notice

Pursuant to Iowa Code Supplement, section 455H.105, the Environmental Protection Commission (Commission) hereby adopts Chapter 137, "Iowa Land Recycling Program and Response Action Standards," Iowa Administrative Code.

The 1997 Iowa Legislature established the "Iowa Land Recycling and Environmental Remediation Standards Act" in Senate File 528 requiring the Commission to adopt rules developed jointly by the Iowa Department of Natural Resources and a Technical Advisory Committee (TAC) made up of members of the public. This program is designed to meet the dual objectives of addressing contaminated sites and promoting the redevelopment of these sites. The primary means of meeting these objectives is through a program which encourages voluntary participation to address contamination, establishes a three-tiered set of risk-based response action standards and provides a measure of liability protection to participants and future property owners.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 12, 1998, as ARC 8241A. The rules as published in the notice adopted except for amendments as provided below.

The Iowa Department of Natural Resources received written comments and conducted three public hearings. The written and oral comments have been summarized in a Responsiveness Summary dated September 30, 1998, and available from the Department.

The TAC was provided copies of the Responsiveness Summary and reached consensus on the amendments which were proposed to the Commission for adoption. At a public meeting on October 19, 1998, the Commission voted to adopt the rules as amended.

The Commission voted to make these rules effective upon filing in accordance with Iowa Code section 17A.5(2)"b." These rules establish a new voluntary cleanup program which confers a benefit on the public by providing standards and policies which are intended to encourage voluntary actions to address contamination and enhance the development of contaminated property. Iowa Code Supplement section 455H.501(3) directs the Commission to adopt rules by October 1, 1998.

The following is a description of amendments to the rules as published in the Notice of Intended Action:

ITEM 1. Table II in 137.6(6)(455H) has been amended to correct an error. The entry for the variable ED_a (exposure duration by an adult expressed in years) under the heading "Soil Depth (ft), 2-10," has been changed from 5 to 1 as was the original intent. Similarly, under Table 1, the entry for ED_a, for the chemical group, C,D,E, for soil at a depth greater than 10 feet was intended to be 1 year rather than 30 years.

ITEM 2. Subrule 137.10(6) contained an incorrect rule citation. The original intent was to require demonstration of compliance with site specific standards for soil to use the 95 percent confidence level method as is the case for groundwater. The citation of 13710(6) is amended from 137.10(5)"a"(1) to 137.10(5)"a"(2).

ITEM 3. Subrule 137.3(1), paragraph "d," has been deleted. In response to several comments the Department and the TAC agreed this paragraph was misleading because the intent was not to exclude from participation in the program sites which to various degrees were affected by "releases" as designated in the paragraph. This paragraph contains the definition of "release" as specified in Iowa Code Supplement 455H.103(13) which is also incorporated into the definitions in 567--137.2.

ITEM 4. Subrule 137.3(2), paragraph "d," required participants to submit assessment reports "...related to environmental conditions at the property...", as part of the enrollment process. Some commentators felt this language was too broad and that any submittals of previously acquired assessment information should be voluntary. The Department and the TAC decided submittal of this type of information was justified but agreed to more clearly define the scope of the required submittals. Assessment information relating to contamination which is documented to be above a statewide standards or otherwise reportable under Department rules in 567--Chapter 131 must be submitted as part of the enrollment process.

ITEM 5. The rules provide that the target cancer risk (TR) in groundwater for statewide and site specific standards is 5×10^{-6}. However, the TR for soils under statewide and site specific standards was 10^{-6}. In order to make the target cancer risk consistent between soil and groundwater, the soil target cancer risk in subrules 137.5(5) and 137.6(6) are amended from TR $= 10^{-6}$ to TR $= 5 \times 10^{-6}$.

ITEM 6. The first sentence of subrule 137.6(1) was intended to describe in general terms the general assumptions which distinguish the application of statewide standards from site specific standards. This sentence was revised to remove any implication that it was placing any preconditions on participants' choice to use statewide or site specific standards under this program.

ITEM 7. The references in subrule 137.6(5) to using wellhead protection areas as a consideration in assessing "nonused groundwater in a protected groundwater source" have been deleted. Partially in response to comments and upon further study, it was felt that most public water supplies did not have formal well protection area designations developed from consistent methods and criteria which could be relied upon for the purposes of this rule.

ITEM 8. In response to public comment raising questions about how the Department could oversee the progress of participants who initiate site assessment activities without review and approval of a work plan, subrules 137.8(2) and 137.8(5) have been amended. The changes make it clear that participants have the option to proceed to the site assessment without approval of a work plan as long as they give prior notice to the agency that they intend to do so, with a brief explanation of the scope of the assessment and a schedule for completion. The amendments also provide that participants may proceed from site assessment to the risk evaluation/response action phase without review and approval of the site assessment report as long as prior notice with a completion schedule is given the agency.

The rules are intended to implement Iowa Code Supplement chapter 455H.

These rules will become effective upon filing which is October **, 1998.

The following new chapter is adopted.

Adopt the following **new** chapter:

CHAPTER 137
IOWA LAND RECYCLING PROGRAM AND RESPONSE ACTION STANDARDS

567--137.1(455H) Authority, purpose and applicability.

137.1(1) Authority. This chapter is adopted under the authority of Iowa Code Supplement chapter 455H. These rules establish the policy and procedures for the voluntary enrollment of contaminated property in the "land recycling program" established under chapter 455H. These rules also establish the response action standards which participants must meet in order to qualify for a no further action certificate and the statutory protections and immunities which follow from it.

137.1(2) Purpose. Consistent with the declaration of policy stated in Iowa Code Supplement section 455H.104, these rules are intended to achieve the dual objective of addressing the current and future risks associated with contaminated property and thereby enhancing the market conditions which can lead to development of these properties into their highest productive use. These objectives can in part be met through a program which encourages voluntary participation by persons who may have a legal duty to address, in part or in whole, the contamination within an affected area as well as persons who might not have a legal obligation but who have an interest in development of enrolled sites. These rules attempt to provide a degree of certainty in the response action process as an incentive to participants and as a means of assisting participants in quantifying their financial investment. The following statement of principles is intended as a guide both in the interpretation of these rules and as a statement of the department's regulatory philosophy.

a. It is the objective of the department and these rules to establish a collaborative process between the participant(s) and department staff as the most effective means of achieving consensus and resolving disputes on issues which are not or cannot be fully defined and anticipated by rule.

b. Although participation in this program is voluntary, these rules establish basic standards which must be met in order to obtain regulatory closure from the department through issuance of a no further action certificate.

c. Although the scope of the response actions addressed under these rules may not in every case address all known or unknown releases within an affected area, it should be the objective of both the department and the participants to work together and to use all resources available to address all known releases within an affected area in the interest of protecting public health, safety and the environment as well as achieving regulatory finality.

137.1(3) Applicability. These rules shall apply only to releases of contaminants which are being addressed at enrolled sites. The department may in its discretion apply the response action rules in 137.4(455H) through 137.10(455H) to releases of contaminants at sites which are not enrolled. These rules do not in any way limit the statutory liabilities of participants or non-participants except as expressly provided within the context of enrollment and Iowa Code

Supplement chapter 455H. Consistent with Iowa Code Supplement section 455H.505, these rules do not limit the authority of the department or the responsibility of statutorily responsible persons to provide notice of hazardous conditions under 567--Chapter 131 or to respond to new releases and undertake emergency response actions under 567--Chapter 133. For sites which are not enrolled, 567--Chapter 133 rules will remain in effect and for enrolled sites 567--Chapter 133 shall apply to the extent it is not inconsistent with this chapter.

567--137.2(455H) Definitions.

"Affected area" means any real property affected, suspected of being affected, or modeled to be likely affected by a release occurring at an enrolled site.

"Affiliate" means a corporate parent, subsidiary, or predecessor of a participant, a co-owner or co-operator of a participant, a spouse, parent, or child of a participant, an affiliated corporation or enterprise of a participant, or any other person substantially involved in the legal affairs or management of a participant as defined by the department.

"Background standard" means a standard which represents concentrations of contaminants which are naturally occurring or are generally present and not related to a readily identifiable release.

"Carcinogenic health risk" means the incremental risk of a person developing cancer over a lifetime (70 years) as a result of exposure to a hazardous substance, expressed as a probability such as one in a million (10^{-6}). The contaminant level for the probability value is derived from application of certain designated exposure assumptions and a slope factor.

"Contaminant" means any hazardous substance found in the various media of the environment.

"Contaminant of concern" means specific hazardous substances that are identified for evaluation in the risk assessment process. Identification can be based on their historical and current use at the site, detected concentrations in environmental media and their mobility, toxicity, and persistence in the environment.

"Enrolled site" means any property which has been or is suspected to be the site of or affected by a release and which has been enrolled pursuant to this chapter by a participant.

"Environmental protection easement" means an institutional control created under Iowa Code Supplement section 455H.206 which is a statutorily authorized restriction on land use.

"Exposure pathway" means the course a contaminant of concern may take from its source area to an exposed organism. Each exposure pathway includes a source or release from a source, a point of exposure, and an exposure route.

"Exposure route" means the manner in which a contaminant of concern comes in contact with an organism (e.g., ingestion, inhalation, dermal contact).

"Free product" means a hazardous substance that is present as a nonaqueous phase liquid (e.g., liquid not dissolved in water) or is present as a solid in its original form as a product or waste material.

"Gross contamination" means contamination present at concentrations in an amount sufficient to reasonably expect that institutional or technological controls will not be adequately protective of human health or the environment.

"Group A and B chemicals" means hazardous substances which have been classified for human carcinogenicity as Group A - Human Carcinogen or Group B - Probable Human Carcinogen. Group A is used only when there is sufficient evidence from epidemiological

studies to support a causal association between the hazardous substance and cancer in humans. Group B is divided into two subgroups. Group B1 is for hazardous substances for which there is limited evidence of carcinogenicity from epidemiological studies. Group B2 is for hazardous substances for which there is sufficient evidence of carcinogenicity from animal studies but inadequate or no data from epidemiological studies.

"Group C, D and E chemicals" means hazardous substances which have been classified for human carcinogenicity as Group C - Possible Human Carcinogen; Group D - Not Classifiable as to Human Carcinogenicity; Group E - Evidence of Noncarcinogenicity for Humans; or which have not been classified for human carcinogenicity. Group C is for hazardous substances with limited evidence of inadequate human and animal evidence of carcinogenicity or for which no data are available. Group E is for hazardous substances which show no evidence of carcinogenicity in two adequate animal tests in different species or in both adequate epidemiological and animal studies.

"Hazardous substance" means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, or that is an irritant or that generates pressure through decomposition, heat, or other means. "Hazardous substance" may include any hazardous waste identified or listed by the administrator of the United States Environmental Protection Agency under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, or any toxic pollutant listed under Section 307 of the federal Water Pollution Control Act as amended to January 1, 1977, or any hazardous substance designated under Section 311 of the federal Water Pollution Control Act as amended to January 1, 1997, or any hazardous material designated by the secretary of transportation under the Hazardous Materials Transportation Act.

"Hydraulic conductivity" means a measure of the capacity of a porous medium (rock or soil) to transmit water. It is expressed as the volume of water that will flow through a unit length of a unit cross-sectional area of the porous medium in a unit time with a unit head loss.

"Institutional controls" means a nonphysical action which restricts land use to reduce or eliminate exposure to the contaminants of an affected area.

"Lifetime health advisory (HAL)" means an advisory level established by the United States Environmental Protection Agency which represents the concentration of a single contaminant in drinking water which is not expected to cause adverse health effects over lifetime exposure.

"Maximum contaminant level (MCL)" means a standard for drinking water established by the United States Environmental Protection Agency under the Safe Drinking Water Act which is the maximum permissible level of a contaminant in water which is delivered to any user of a public water supply.

"No further action certificate" means the same as no further action letter in Iowa Code Supplement section 455H.301. It is a document issued by the department to the participant certifying no further response action is required at an enrolled site for those conditions classified as no further action except the monitoring or the maintenance of institutional or technological controls when required.

"No further action certification" means the department has determined an enrolled site has met all standards applicable for the identified hazardous substances and no further response action is required except the monitoring or the maintenance of institutional or technological controls when required.

"Noncancer health risk" means the potential for adverse systemic or toxic effects caused by exposure to noncarcinogenic hazardous substances expressed as the hazard quotient for a hazardous substance. A hazard quotient is the ratio of the level of exposure of a hazardous substance over a specified time period to a reference dose derived for a similar time period.

"Participant" means any person who enrolls property pursuant to this chapter. A participant is a participant only to the extent the participant complies with the requirement of this chapter.

"Point of compliance" means a location selected within the affected area where the concentration of contaminants of concern must be at or below the target levels established for that point.

"Point of exposure" means the location at which an individual or population may come in contact with a contaminant of concern from the enrolled site.

"Protected groundwater source" means a saturated bed, formation, or group of formations which has a hydraulic conductivity of at least 0.44 meters per day (m/d) and a total dissolved solids concentration of less than 2,500 milligrams per liter (mg/l).

"Receptor" means an individual or population that is or may be affected by a release from the enrolled site.

"Release" means any spilling, leaking, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment of a hazardous substance, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, but excludes all of the following:

1. Any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons.

2. Emission from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine.

3. The release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined in the federal Atomic Energy Act of 1954, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under 42 U.S.C.§ 2210 or, for the purposes of 42 U.S.C. § 9604 or any other response action, any release of source, by-product, or special nuclear material from any processing site designated under 42 U.S.C. § 7912(a(1) or § 7942(a).

4. The use of pesticides in accordance with the product label.

"Residential land-use area" means an area zoned for residential use or an area where residential use currently exists, is planned, or is not otherwise precluded. In addition, a residential land-use area includes other areas where frequent, long-term, close contact with soils is likely to occur (e.g., playgrounds, sport fields, gardens, child care facilities).

"Response action" means an action taken to reduce, minimize, eliminate, clean up, control, assess, or monitor a release to protect the public health and safety or the environment. "Response action" includes, but is not limited to, investigation, excavation, removal, disposal, cleaning of groundwaters or surface waters, natural biodegradation, institutional controls, technological controls, or site management practices.

"Restricted access" means a nonresidential area in which access is physically limited to prevent unauthorized access or incidental exposure (e.g., fenced-in, covered with buildings or pavement, remote location).

"Risk evaluation/response action document" means a document based on the site assessment for the enrolled site which includes a risk evaluation, proposed response action, and proposed compliance verification strategy for the enrolled site.

"Site assessment plan" means the optional plan submitted to the department which lays out the rationale and the steps to be followed in the conduct of a site assessment for the enrolled site.

"Site assessment report" means the report of the site assessment which defines the nature and extent of contamination, identifies likely exposure pathways, and allows for characterizing potential and current exposure risks posed by the enrolled site.

"Site-specific standard" means a standard for a specific site which represents a concentration of a contaminant in a media of an affected area at which exposure through a specific pathway is considered unlikely to pose a threat to human health, safety, or the environment given site-specific factors related to contaminant transport and likely exposure.

"Statewide standard" means a standard which represents a concentration of a contaminant in a specific media of an affected area at which normal, unrestricted exposure through a specific exposure pathway is considered unlikely to pose a threat to human health, safety, or the environment.

"Surface water" means general use segments as provided in 567—paragraph 61.3(1)"a" and designated use segments of water bodies as provided in 567—paragraph 61.3(1)"b" and 567--61.3(5).

"Target level" means a concentration of a contaminant of concern required to establish compliance with background, statewide or site-specific standards.

"Technological control" means a physical action whose main purpose is to reduce or eliminate exposure to the contaminants of an affected area.

567--137.3(455H) Enrollment in land recycling program.

137.3(1) Property eligible for enrollment. Unless excluded by statute or this rule and subject to eligibility conditions specified in this chapter, property which has been or is suspected to be the site of or affected by a release of a hazardous substance as defined in Iowa Code Supplement section 455H.103 is eligible for enrollment beginning (effective date of the rule), 1998. The following sites shall not be enrolled in the land recycling program:

a. Property with petroleum releases associated with underground storage tanks subject to regulation under Iowa Code chapter 455B, division IV, part 8; and department rules under 567--Chapter 135. (However, property affected by releases of "regulated substances" from underground storage tanks other than petroleum as defined in rule 567--135.2(455B) subject to regulation under 567--Chapter 135 may be enrolled under this chapter. Property enrolled and affected by a release from underground storage tanks of regulated substances other than petroleum will be subject to the response action standards in this chapter rather than those in 567--135.8(455B) through 135.12(455B). See also 567—paragraph 135.1(3)"e."

b. Property which has been placed or is proposed to be included on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. Section 9601 et seq. A property will be considered proposed at the time that a public notice of intent to list the property on the national priorities list is published in the Federal Register in accordance with 40 CFR 300.425.

c. An animal feeding operation structure as defined in Iowa Code section 455B.161.

d.. Properties subject to administrative or judicial enforcement action by the department or the Environmental Protection Agency or subject to an administrative or judicial consent order addressing environmental conditions. These properties may be eligible for enrollment only with the written approval of and under such terms as determined by the enforcing agency.

e.. Eligible properties which are or may be affected by or commingled with ineligible releases or conditions will be evaluated on a case-by-case basis to determine their appropriateness for enrollment. Only the eligible property and participant(s) will be afforded the benefits and immunities available under Iowa Code Supplement chapter 455H. Any protections provided by issuance of a no further action certificate will be limited by and may be subject to reopening due to future conditions associated with the ineligible release. Considerations for enrollment or exclusion include but are not limited to the following:

(1) The extent to which eligible releases and site conditions can be assessed and response action(s) designed and implemented independent of the ineligible releases and property.

(2) The extent to which the liability and other protections offered by Iowa Code Supplement chapter 455H and the conditions of a no further action certificate can reasonably be defined to apply to the eligible site without consideration of or dependence on future conditions associated with the ineligible release and property.

(3) The extent to which a participant is willing to conduct all response action(s) necessary to address the health, safety and environmental conditions implicated by both eligible and ineligible releases and conditions. The extent to which a nonparticipant responsible for the ineligible release and property can establish an intention and ability to cooperatively address and share costs associated with the commingled conditions and satisfy both the standards in this chapter and any other regulatory standards applicable to the ineligible release or condition.

137.3(2) Enrollment policy and procedures. Prior to enrollment, the applicant/participant(s) should have conducted sufficient preliminary site investigation and project planning to be prepared to show that a site is eligible for enrollment and the participant(s) is ready and capable of initiating and completing a response action in accordance with these rules. The applicant/participant(s) must submit a completed program application and participation agreement form as supplied by the department. The program application shall contain at least the following information.

a. An acknowledgment of access/control of the site signed by the participant if that person is a fee titleholder in the affected property; if the applicant/participant(s) is not a fee titleholder, then an acknowledgment by the fee titleholder of the affected property. If acknowledgment of access cannot be obtained, the participant must describe efforts to obtain access and reasons why it has been refused.

b. The name, address and other relevant information of each current and anticipated participant(s). The description should include a brief statement of the reasons for each person's participation including but not limited to that person's interest in and legal relationship to the property enrolled and the expected role and scope of any participation. Other persons who are not participants but who may have an interest in the project should be identified, such as state and local development agencies, community groups, and financing sources.

c. The applicant/participant(s) must demonstrate the presence of hazardous substances at concentrations that warrant response action(s) under the standards in this chapter. At a

minimum the environmental condition to be addressed must be documented by the submission of a report which includes the following:

(1) Soil and/or groundwater samples of hazardous substances which have been analyzed by a laboratory certified under 567--Chapter 83 for the analytes being tested. If there is not a laboratory certified under 567--Chapter 83 for the analytes being tested, then samples may be tested in accordance with 567—paragraph 133.3(1)"d." The laboratory analysis should establish the presence of hazardous substances under conditions which exceed or are likely to exceed a statewide standard, if a statewide standard is available. Copies of the laboratory analytical report, boring logs and a site diagram showing the location of the sampling points in relation to the site should be included.

(2) A description of the current and historical uses of the property based on a reasonable and diligent inquiry. This must include a description of the following: (a) known sources and probable locations of hazardous substances and probable location of the sources at the property which the participant proposes to address as part of the project; (b) a general description of the historical uses of the property and probable hazardous substances which could reasonably be associated with past land use; (c) a general description of the surface characteristics of the property and surrounding areas such as current zoning, residential, commercial and industrial uses, and current uses of adjoining properties.

d. Any assessments or other reports relating to contamination at the property in excess of a statewide standard or reportable under 567---Chapter 131 which is known to and within the control of the applicant/participant shall be submitted. If the applicant/participant intends to claim that information constitutes a privileged environmental audit as provided in 1998 Iowa Acts, House File 681, the applicant must notify the department of the claim and resolve the issue of privilege prior to submittal. The applicant shall not submit to the department a report or any part of a report which it claims to be privileged and any information submitted under this paragraph shall be deemed a nonprivileged submittal as provided in section 6, paragraph (1)"a," of the Act. This provision does not relieve the applicant/participant of any obligation to notify the department of a hazardous condition as provided in Iowa Code section 455B.386 and rules under 567--Chapter 131.

e. A statement of the project objectives which includes the current use of the property, proposed development activities, and an expected time frame for meeting these objectives. The statement should include a general description of the scope of the proposed environmental condition to be addressed and a proposed schedule for initiation and submittal of site assessment activities pursuant to rule 137.8(455H). The statement should describe any foreseeable barriers toward achieving project objectives such as access to property, financing uncertainties, legal actions, allocation of responsibility amongst parties.

f. A list of all known permits and regulatory actions and directives associated with an environmental condition at the site. If any parcel of the proposed enrolled site is subject to any federal regulatory corrective action directives, administrative orders or judicial actions, these must be explained. The applicant must submit written proof that the appropriate federal regulatory agency has been notified of the applicant's desire to participate in the Iowa land recycling program. Objections, concerns or issues which could lead to disputes regarding dual or conflicting jurisdiction should be resolved prior to application, if possible, and before admission.

g. The department will respond in writing within 60 days of receipt of the enrollment application. The department will notify the applicant/participant(s) whether the site has been accepted and an expected time line for assignment of the project to a manager. If the site is not accepted, the department will notify the applicant of the reason(s) why. Upon notification of admission, the property shall be considered enrolled. Once the department has assigned the enrolled site to a project manager, the department will enter into a participation agreement with the participant(s).

137.3(3) Enrollment fees and oversight costs. A nonrefundable enrollment fee of $750 must be submitted with the program application. This fee is intended to cover the department's cost of reviewing the program application and a minimum amount of subsequent oversight costs. Subsequent fees in excess of the minimum $750 may be assessed for actual oversight costs incurred by the department as provided in this chapter. Department oversight activities may include, but are not limited to: review of documents, meetings with the participant(s), site visits, sampling, and laboratory costs related to verification of submitted materials. The total fees for oversight costs shall not exceed $7,500 per enrolled site. Fees shall be assessed and collected as follows:

a. Hourly billing rate. Project oversight fees shall be based on an hourly rate to cover wages and overhead costs of personnel employed by the department in the land recycling program. The department shall calculate and publish on an annual basis an hourly billing rate at which oversight fees shall be calculated.

b. Quarterly payments. The department shall bill the participant(s) on a quarterly basis for additional oversight costs beyond the review of the application incurred by the department. The participant(s) shall pay the department within 30 days after receiving the department's quarterly fee statement. If there is more than one participant, each shall be jointly and severally responsible for payment. The department will provide split billings if provided with an enforceable written contract allocating the fees amongst the participants.

c. Failure to pay required fees. If the participant(s) fails to pay department oversight fees that are required under this subrule, the department shall cease to provide oversight to the participant(s) and terminate enrollment of the site as described in subrule 137.3(7).

137.3(4) Participation agreement. All participants shall enter into a participation agreement. This agreement shall be executed at the time the project is assigned to a project manager. At a minimum, the agreement shall establish the following:

a. A requirement that the participant(s) agree and provide necessary documentation to ensure reasonable access to the affected property by department staff and other authorized representatives of the department.

b. A requirement that the participant(s) reimburse the department for the actual costs assessed as provided in 567--subrule 136.3(3).

c. A requirement that the participant(s) certify they have the financial means to complete the project based on an initial estimate of completion costs. The department may require modification and amendment of the financial certification at any stage in the project and may require the participant(s) to provide financial documentation as necessary to support the certification.

d. A requirement that the participation agreement shall include a general description of the scope of the project and the goals to be achieved, a general time frame for submission and review of documents in accordance with this chapter, allocation of responsibility amongst

multiple participants and other appropriate milestones. Either the participant(s) or the department may request a meeting to develop a statement describing the scope, goals, and time frames for the project.

137.3(5) Prioritization. Eligible sites will be enrolled in the order in which they are received. The department reserves the right to elevate the priority of a given site if it determines the threat to the public health or environment or environmental conditions in combination with the development objectives consistent with Iowa Code Supplement section 455H.104 is significantly greater than those of sites with an earlier enrollment date.

137.3(6) Withdrawal procedures. Enrollment and continued participation in the program is voluntary. The participant(s) may withdraw the enrolled site and individual participants may withdraw from further participation in the land recycling program at any time upon written notice to the department. Any participant who withdraws an enrolled site from further participation in the program shall not be entitled to any refund or credit for the $750 enrollment fee and shall be liable for any oversight costs actually incurred by the department up to the cap of $7,500 per enrolled site. A participant who withdraws a site prior to completion of all response action(s) required by this chapter and issuance of a no further action certificate in accordance with rule 137.11(455H) forfeits all benefits and immunities provided by this chapter and Iowa Code chapter 455H. Prior to withdrawal, the participant(s) shall submit a plan, which must be approved by the department, for stabilization of conditions at the site or a justification for why further action to stabilize the site is not necessary. Participants shall be required to take such actions as the department determines necessary to stabilize conditions at the site, including, but not limited to, securing or properly abandoning monitoring wells, removing or otherwise properly disposing of all contaminated soil excavations, removing or properly disposing of exposed or exhumed contaminants, filling or properly fencing open excavations, and posting safety notices.

137.3(7) Termination of enrollment. Enrollment of a participant(s) may be terminated based on a finding of material noncompliance with department rules and statutory requirements including but not limited to the following:

a. Significant failure, after written notice, to comply with schedules for completion and submission of reports and implementation of response action(s) required by these rules or otherwise agreed upon in writing by the department and participants. Written requests for reasonable schedule extensions may be granted upon a showing of extenuating circumstances beyond the control of the participant(s) and the participant(s) agent/contractor.

b. Failure to proceed in a timely manner after written notice in performing the additional response action required due to a failure of technological and institutional controls pursuant to rule 137.7(455H).

c. Material misstatement or omission of fact in reports submitted to the department by the participant or agents of the participant.

d. Evidence that the site falls under one of the exclusion categories in subrule 137.3(1).

e. Failure to pay required fees to the department as required in subrule 137.3(3).

137.3(8) Appeal rights. The department will notify participant(s) of a denial of enrollment or of an intent to terminate enrollment and provide a statement of reasons. The participant(s) shall have a right to appeal the decision to deny enrollment or to terminate and, upon timely appeal, contested case procedures shall be initiated pursuant to 561--Chapter 7.

567--137.4(455H) Background standards.

137.4(1) Purpose. This rule defines the basis and procedure for establishing background standards in groundwater, soil, surface water, and air. Background standards represent concentrations of contaminants that are naturally occurring or generally present and not related to a readily identifiable release. Background standards provide a baseline for assessing impacts of contaminant releases from within the affected area.

137.4(2) Determination of background standards. Background standards shall be based on sampling at appropriate site-specific background locations. Background sampling locations shall be outside the influence of any possible contamination associated with releases occurring on the property in which the enrolled site is located. Sufficient supporting information shall be provided to demonstrate the appropriateness of background sampling locations. Appropriateness for background sampling locations has two aspects which shall be addressed:

a. Background samples shall be collected from a location which represents a true background condition with respect to the enrolled site. For example, a background groundwater sample will be collected from an upgradient location relative to groundwater movement.

b. Background samples will represent conditions which are comparable to the contaminated media being addressed. In the case of soils, samples from the affected area and the background areas will be comparable in physical, chemical, and biological attributes.

Sampling conducted for the purpose of establishing a background standard shall meet quality criteria specified for the site assessment, rule 137.8(455H). The minimum number of samples to be collected from the medium of concern for which a background standard is being established shall be consistent with rule 137.10(455H), regarding demonstration of compliance.

567--137.5(455H) Statewide standards.

137.5(1) Purpose. This rule defines the basis and procedure for establishing statewide standards for contaminants in groundwater, soil, and surface water. Statewide standards for groundwater and soil represent concentrations of contaminants in these media at which normal exposure via ingestion is considered unlikely to pose a threat to human health. Statewide standards for surface water are based on protection of aquatic life, except when the surface water is a source of drinking water in which case they are based on protection of human health. This rule also describes how air standards are to be addressed.

137.5(2) Scope. Statewide standards described herein address what are considered to be the most likely, normal exposure situations. Statewide standards address direct exposure via ingestion to contaminants in the media of concern only. In the event other exposure concerns are identified, such that statewide standards are not protective of human health and the environment, the department may deny the use of the statewide standards prescribed herein and require the use of site-specific standards based on site-specific conditions pursuant to subrule 137.6(9).

Examples of exposure concerns not anticipated by the statewide standard might include, but are not limited to:

- Significant plant uptake of contaminants from soil or groundwater,
- Contaminants entering drinking water lines from contact with soil or groundwater,
- Situations in which dermal exposure to contaminants in soil poses a substantially greater risk than ingestion of the soil,

- Situations where the contaminated media represents a contaminant source for other exposure concerns or pathways,
- Ecological concerns, other than for surface water,
- Groundwater in a nonprotected groundwater source that is used or likely to be used for drinking water or other use.

137.5(3) Establishment of risk-based contaminant concentrations.

a. Risk-based concentration formula. Risk-based contaminant concentrations for soil and groundwater, except lead, shall be computed using the following formula, where appropriate:

(Formula I)

$$C = \frac{RF \times AT \times 365 \text{ days / year}}{Abs \times [(ER_c \times EF_c \times ED_c) \div BW_c + (ER_a \times EF_a \times ED_a) \div BW_a] \times CF}$$

Where: C = Concentration of contaminant (soil: mg/kg, water: mg/l)

RF = Risk factor

For protection from cancer health risks:

RF = TR÷SF

Where: TR = Target cancer risk (unitless)

SF = Oral slope factor per (mg/kg)/day; see paragraph "c" for source.

For protection from noncancer health risks:

RF = THQ x RfD

Where: THQ = Target hazard quotient (unitless)

RfD = Oral reference dose ((mg/kg))/day; see paragraph "c" for source.

AT = Averaging time (years); time over which exposure is averaged and potential adverse effects may occur

Abs = Absorption factor (unitless); portion of exposed contaminant absorbed by the body

ER_c = Exposure rate by a child (soil: mg/day, water: l/day)

EF_c = Exposure frequency by a child (days/year)

ED_c = Exposure duration by a child (years)

BW_c = Body weight of exposed child (kg)

ER_a = Exposure rate by an adult (soil: mg/day, water: l/day)

EF_a = Exposure frequency by an adult (days/year)

ED_a = Exposure duration by an adult (years)

BW_a = Body weight of exposed adult (kg)

CF = Conversion factor: 10^{-6} kg/mg for soils; 1 (unitless) for water

b. Carcinogenic classification of chemicals. The potential carcinogenicity of chemicals will be based on the weight-of-evidence classification system utilized by the U.S. Environmental Protection Agency (EPA). Risk-based concentrations will be based on cancer health effects for chemicals that are classified as Group A or Group B. Risk-based concentrations will be based on

noncancer health effects for chemicals that are classified as Group C, Group D or Group E. In the absence of such classification for a chemical, the Group D classification will be assumed.

c. Source of toxicity values. Source of information on toxicity factors (e.g., oral reference doses and oral slope factors) and carcinogenic classification for chemicals shall be in accordance with the following hierarchy. The most recent version of each shall be used.

(1) EPA's Integrated Risk Information System (IRIS).

(2) EPA's Health Effects Assessment Summary Tables (HEAST).

(3) Best available information, including consultation with toxicologists at EPA's National Center for Exposure Assessment in Cincinnati, Ohio.

137.5(4) Statewide standards for groundwater.

a. Protected groundwater source. Statewide standards for groundwater in a protected groundwater source will be the enforceable Maximum Contaminant Level (MCL) established by the EPA pursuant to the Safe Drinking Water Act, if one exists. If no enforceable MCL exists, the statewide standard for chemicals will be the lifetime health advisory level (HAL) as provided in the latest "Drinking Water Regulations and Health Advisories" by the EPA's Office of Water or equivalent. If no MCL or HAL exists, the statewide standard for a chemical will be calculated using Formula I and input variables for groundwater ingestion in accordance with the following subparagraphs.

(1) Input variables for calculating statewide standards for chemicals in groundwater from a protected groundwater source based on cancer risk are as follows:

- $TR = 5 \times 10^{-6}$
  SF = Chemical-specific (see paragraph 137.5(3)"c")
  $AT = 70$ years
  $Abs = 1$
- $ER_c = 1$ l/day
  $EF_c = 0$ days/year
- $ED_c = 6$ years
  $BW_c = 15$ kg
  $ER_a = 2$ l/day
  $EF_a = 365$ days/year
  $ED_a = 70$ years
  $BW_a = 70$ kg
  $CF = 1$

(2) Input variables for calculating statewide standards for chemicals in groundwater from a protected groundwater source based on noncancer risk are as follows:

$THQ_c = 0.02$ (Group C chemicals); $THQ_{D,E} = 0.2$ (Group D and E chemicals)
RfD = Chemical-specific (see paragraph 137.5(3)"c")
$AT = 70$ years
$Abs = 1$

- $ER_c = 1$ l/day
  $EF_c = 0$ days/year
  $ED_c = 6$ years
  $BW_c = 15$ kg

ER_a = 2 l/day
EF_a = 365 days/year
ED_a = 70 years
BW_a = 70 kg
CF = 1

b. Groundwater in a nonprotected groundwater source. The statewide standard for a Group A or B chemical, except arsenic, in groundwater in a nonprotected groundwater source will be 20 times the statewide standard for the chemical in a protected groundwater source or a risk-based concentration using Formula I with TR = 10^{-4} and the exposure factors specified in subparagraph 137.5(4)"a"(1), whichever is larger. The statewide standard in a nonprotected groundwater source for arsenic will be 0.1 mg/l. The statewide standard for a Group C chemical in a nonprotected groundwater source will be 50 times the statewide standard for the chemical in a protected groundwater source. The statewide standard for a Group D or E chemical in a non-protected groundwater source will be 5 times the statewide standard for the chemical in a protected groundwater source. However, in no case will the statewide standard for a Group C, D, or E chemical in a nonprotected groundwater source be less than a risk-based concentration using Formula I with a THQ = 1 and exposure factors as specified in subparagraph 137.5(4)"a"(2). The statewide standards for groundwater in a nonprotected groundwater source are based on groundwater ingestion only.

137.5(5) Statewide standards for soil. Statewide standards for chemicals in soil, except lead, will be calculated using Formula I based on incidental ingestion of soil and dust with input variables in accordance with the following paragraphs. The statewide standard for lead in soil shall be 400 mg/kg.

a. Input variables for calculating statewide standards for chemicals in soil based on cancer risk are as follows:

- TR = 5 x 10^{-6}
  SF = Chemical-specific (see paragraph 137.5(3)"c")
  AT = 70 years
  Abs = 1
- ER_c = 200 mg/day
  EF_c = 350 days/year
- ED_c = 6 years
  BW_c = 15 kg
  ER_a = 100 mg/day
  EF_a = 350 days/year
  ED_a = 64 years
  BW_a = 70 kg
  CF = 10^{-6} kg/mg

b. Input variables for calculating statewide standards for chemicals in soil based on noncancer risks are as follows:

THQ = 1

RfD = Chemical-specific (see paragraph 137.5(3)"c")
AT = 6 years
Abs = 1
- ER_c = 200 mg/day
EF_c = 350 days/year
ED_c = 6 years
BW_c = 15 kg
ER_a = 100 mg/day
EF_a = 350 days/year
ED_a = 0 years
BW_a = 70 kg
CF = 10^{-6} kg/mg

137.5(6) Statewide standards for surface water. Water quality standards pursuant to 567--Chapter 61 shall be considered statewide standards for surface water. If a promulgated water quality standard does not exist for a contaminant of concern, the department may establish an appropriate standard in a manner consistent with 567--Chapter 61.

- **137.5(7)** Statewide standards for air. Ambient air quality standards pursuant to 567--Chapter 28 constitute statewide standards for air. Air emission sources must meet air quality emission standards as set forth in 567--Chapters 20 through 31 inclusively, as applicable. Any relevant air quality standard that is subsequently promulgated by statute or rule shall become a statewide standard for air upon the effective date of adoption by the state. In the absence of applicable, adopted standards, site-specific air standards must be met, in accordance with subrule 137.6(8), when air quality issues are addressed at a site.

137.5(8) Point of exposure for statewide standards. The point of exposure associated with the use of only statewide standards in the determination of compliance will be assumed to be anywhere and everywhere, except for surface water. The point of exposure associated with the use of statewide standards for surface water will be assumed to be the point of groundwater or other site runoff immediately before it discharges to the surface water body.

- **137.5(9)** Practical quantification limits. In no case will the statewide standard be less than the practical quantification limit, as determined by the department.

137.5(10) Maintenance of statewide standards. The toxicity values and promulgated standards that are a basis for statewide standards are subject to periodic revision due to actions not governed under this rule. The department will maintain a guidance document that contains a current list of statewide standards that will be readily available to the public. Statewide standards for individual sites will be locked-in at the beginning of the site assessment process (rule 137.8(455H)). If a statewide standard does not exist for a chemical, it will be the department's responsibility to establish a statewide standard, pursuant to subrules 137.5(4) and 137.5(5), for groundwater and soil, and to add it to the comprehensive list of statewide standards in the guidance document maintained by the department.

567—137.6(455H) Site-specific standards.

137.6(1) Purpose. As opposed to Statewide standards, site-specific standards are derived by applying exposure and risk assumptions applicable to the conditions at a particular site. Like statewide standards, site-specific standards must always be shown to be protective of public

health and safety and the environment. Statewide standards may be used in combination with site-specific standards to address different exposure pathways. Site-specific standards may be required to address exposure pathways which the department determines must be evaluated to be protective of human health, safety and the environment and for which statewide standards have not been established under rule 137.5(455H). Site-specific standards may involve development of target levels for contaminants of concern based on site-specific exposure assumptions for use in lieu of background or statewide standards. Site-specific standards may also include consideration of the actual or potential location where exposure to contaminants occurs or may occur, the likelihood of an exposure occurring, and the overall magnitude and extent of contamination. Site-specific standards may involve use of site-specific target levels for contaminants of concern alone or in conjunction with other site-specific criteria, such as the location where the standard is applied.

137.6(2) General provisions.

a. This rule establishes a minimum protocol that must be met at all enrolled sites which have not established compliance by application of background or statewide standards. Groundwater ingestion and soil ingestion pathway standards under this rule must be evaluated. Surface water and air quality standards under subrules 136.6(7) and 137.6(8) must be met whenever exposure concerns are evident and the participant or the department determines these pathways may present an unacceptable risk for current or future exposures. This rule is not intended to preclude the department or the participant from addressing other exposure pathways, and the department expressly reserves the right to require evaluation of other exposure pathways and compliance with site-specific standards developed for them such as: dermal contact, ingestion of vegetables containing contaminants from soil or irrigation water, migration of contaminants from groundwater or soil into water distribution lines or into air in a confined space, migration of contaminants from soil to groundwater, and migration of contaminants in a nonprotected groundwater source to a protected groundwater source. Participants must establish compliance with standards applicable to all exposure pathways required by the department under this rule in order to qualify for no further action classification under rule 137.11(455H) unless granted a variance as provided in Iowa Code section 455H.205.

b. Site-specific standards are subject to the approval of the department. Assurances in the form of technological or institutional controls (rule 137.7(455H)) will be required, as needed, to ensure continued protectiveness of site-specific standards.

c. The following subrules provide options for the site-specific standards. The participant may select any of these options, or combinations thereof, for use as site-specific standards.

137.6(3) Site-specific groundwater point of exposure. A site-specific groundwater standard may be an appropriate target level applied at groundwater points of exposure that are limited by technological or institutional controls.

a. A point of exposure for groundwater is a location within the affected area where a well exists or could be placed (potential point of exposure). Where technological or institutional controls are determined to effectively restrict the placement of groundwater wells, the points of exposure apply outside the area of restriction. A sufficient number of points of exposure may be established for determining compliance such that compliance with appropriate target levels at these points will ensure compliance at all points of exposure. Normally a compliance point of exposure will be a location at the boundary of the area restricted by an institutional control where a groundwater well could be installed that would have the highest contaminant

concentration. Generally more than one compliance point of exposure must be established due to uncertainties, such as spatial and temporal variabilities in groundwater flow and contaminant occurrence.

b. Target levels. The point of exposure target level for drinking water wells is the statewide standard applicable to groundwater ingestion or an alternative site-specific target level approved under subrule 137.6(9) or 137.6(10). The point of exposure target level for non-drinking water wells is the statewide standard applicable to nonprotected groundwater or an alternative site-specific target level approved under subrule 137.6(9) or 137.6(10). The point of exposure target level for nonused groundwater meeting the conditions in subrule 137.6(5) is the statewide standard for a non-protected groundwater source.

c. Nonprotected groundwater sources. A nonprotected groundwater source which is affecting or likely to affect an existing drinking water well shall be required to meet the same site-specific standards, including point of exposure target level(s), as applied to a protected groundwater source.

d. Unless conditions can be demonstrated to be stable, predictive techniques in accordance with subrule 137.9(4) must be used to determine the future effects of groundwater contamination on existing drinking and non-drinking water wells and to determine the area predicted to exceed the point of exposure target level(s) where wells could be installed. When using predictive techniques, determining the location(s) where the applicable point of exposure target level is expected to be exceeded may involve comparison of the appropriate numerical standard to the predicted contaminant concentration at a passive monitoring well at the groundwater point of exposure. Alternatively, predictive techniques using site-specific models (paragraph 137.9(4)"b") may involve simulation of pumping at a well located at the point of exposure, in which case, the pumping rate used in the simulation shall be the rate that is reasonably possible for the area that yields water with the highest contaminant concentration. In absence of site-specific justification for doing otherwise, long-term pumping will be assumed to be at a rate of 100 gallons per day; the sustainable yield, if less than 100 gallons per day; or a reasonable, higher rate, if such a rate results in higher contaminant concentration.

e. Institutional controls. For a protected groundwater source or a nonprotected groundwater source as described in paragraph (b), institutional controls must be shown to effectively prohibit the installation of wells for the period of time in which contaminant concentrations might otherwise be expected to result in an exceedence of the appropriate target levels. For a nonprotected groundwater not described as in paragraph "b," a less stringent standard of effectiveness as well as the type of future well installation to be restricted may be utilized for those areas of potential concern. Unless there is a history of usage of what might otherwise be considered nonprotected groundwater or there is uncertainty as to the uniformity in the hydraulic characteristics of the nonprotected groundwater source, notice to the authority responsible for permitting private wells under 567--Chapters 39 and 49 may be adequate especially if combined with a municipal or county ordinance prohibiting installation of private wells based on the availability of a public water supply.

137.6(4) Site-specific groundwater point of compliance. A site-specific standard may be established for a site-specific groundwater point of compliance that is different from a compliance point of exposure. A site-specific groundwater point of compliance must be used in conjunction with all groundwater compliance points of exposure pursuant to subrule 137.6(3) to provide an alternative monitoring location. Target levels for contaminants of concern at a site-

specific groundwater point of compliance must be established using predictive techniques as specified in subrule 137.9(4). A target level established for a groundwater point of compliance must ensure that the appropriate target level at the groundwater compliance points of exposure will be achieved. A groundwater point of compliance shall be located on the contaminant migration path from the contaminant source to the point of exposure to the maximum extent practicable.

137.6(5) Nonused groundwater in a protected water source. Statewide standards for groundwater in a nonprotected groundwater source, pursuant to paragraph 137.5(4)"b," may be used as target levels for contaminants in an otherwise protected groundwater source when groundwater in the affected area is not used and is not likely to be used in the future in accordance with the following. It must be demonstrated to the satisfaction of the department that contaminants from the enrolled site do not currently, and likely will not in the future, have an impact on any existing water supply well. Any detection, or predicted detection above the practical quantification limit, of a chemical that can be attributed to a release from the enrolled site will be considered to constitute an impact. In addition, it must be demonstrated to the satisfaction of the department that the impacted or potentially impacted aquifer is not a locally significant water resource. Factors that will go into this determination may include, but are not limited to:

- Existence of a nonimpacted public water supply in the potentially affected area;
- General availability of other water resources in the vicinity;
- Plans for development of public water supplies in the vicinity;
- Potential for use of the impacted aquifer as a water supply (e.g., yield, natural water quality); and
- Identification of the aquifer(s) commonly used for water supply in the vicinity.

A local ordinance prohibiting installation of private drinking water wells or notification to the local water utility and water permitting authority, or both, may constitute acceptable institutional controls for site-specific standards under this subrule.

The target levels that may be used in accordance with this subrule are based solely on groundwater ingestion. Compliance with this site-specific standard will not guarantee that contaminants in groundwater may not cause unacceptable exposure via other pathways (e.g., groundwater to air in a confined space, groundwater to surface water, or groundwater to a water distribution line).

137.6(6) Site-specific soil standards based on land use and soil depth. Site-specific soil standards based on land use and soil depth may be used in conjunction with institutional controls. Predetermined site-specific soil exposures based on residential, nonresidential, and restricted-access land use and soil depth are provided in the following paragraphs. Lists of resulting site-specific soil standards for these land use and soil depth categories will be maintained by the department in a guidance document and made readily available to the public. Use of these site-specific soil standards must be supported by institutional controls that ensure that land use will not change to a land use that has a larger potential exposure to soil than land use which forms the basis for the standard being used. Site-specific soil standards based on land-use and soil depth, as described herein, address only ingestion of soil. Compliance with these standards will not guarantee that contaminants in soils may not cause unacceptable exposure via other pathways (e.g., ecological exposure, dermal contact with soil, soil to groundwater, soil to confined air space).

a. Deep soil in a residential land-use area. Site-specific soil standards for deep soils equaling ten times the statewide standard for soils, except for lead, may be used. The lead standard for deep, residential soils is 800 mg/kg. Soils at a depth of ten feet and greater will normally be classified as deep soils. The department may deny the use of a deep soil standard associated with a residential land use or require a modification to the standard due to site-specific considerations including topography, development potential, and actual development plans. In lieu of this default site-specific lead standard for deep soil, a site-specific standard for lead in deep soil may be calculated using the most current version of EPA's Exposure Model for Assessing Risk Associated with Adult Exposures to Lead in Soil. The use of a site-specific standard for deep soil in a residential land-use area shall be supported by an institutional control that permanently records the existence of contaminants above statewide standards in deep soils and restricts excavation resulting in deep soils being placed on the surface.

b. Nonresidential land use. The nonresidential land-use designation will be applicable to areas that are not classified as residential. Site-specific soil standards, except for lead, for nonresidential areas are based on Formula I using the risk and exposure factors shown in Table I. Site-specific soil standards for lead in a nonresidential land-use area are 400, 800, and 1,600 mg/kg for soils less than 2, 2-10, and greater than 10 feet deep, respectively. In lieu of these default site-specific lead standards, site-specific standards for lead in soil less than 2 feet deep may be calculated using the most current version of EPA's Integrated Exposure Uptake Biokinetic Model for Lead in Children. Lead in soil 2-10 feet deep may be calculated using the most current version of EPA's Exposure Model for Assessing Risk Associated with Adult Exposures to Lead in Soil with a multiple factor of 2 applied to this result for lead standards in soil greater than 10 feet deep. The use of a nonresidential land use classification must be supported by an environmental protection easement that prevents a change in land-use to residential.

Table I

Input Variables for Site-Specific Soil Standards for
Nonresidential Area Land-Use Designation

Parameter	Units	Cancer Group	Soil Depth (ft.) ≤ 2	2 - 10	≥ 10
TR	unitless	A, B	5×10^{-6}	5×10^{-6}	5×10^{-6}
SF	$[(mg/kg)/day]^{-1}$	A, B	Chem.-spec.	Chem.-spec.	Chem.-spec.
THQ	unitless	C, D, E	1	1	1
RfD	(mg/kg)/day	C, D, E	Chem.-spec.	Chem.-spec.	Chem.-spec.
AT	years	A, B	70	70	70
		C, D, E	6	30	30
Abs	unitless	A - E	1	1	1
ER_c	mg/day	A - E	200	0	0
EF_c	days/yr	A - E	350	0	0
ED_c	years	A - E	6	0	0
BW_c	kg	A - E	15	15	15
ER_a	mg/day	A - E	100	50	500

EF_a	days/yr	A - E	350	250	200
ED_a	years	A, B	24	30	1
-		C, D, E	0	30	~~30~~ 1
BW_a	kg	A - E	70	70	70
CF	kg/mg	A - E	10^{-6}	10^{-6}	10^{-6}

c. Restricted access land use. The restricted access land-use designation will be applicable to nonresidential areas where access is physically limited (e.g., fenced-in, covered with buildings or pavement, remote location). Site-specific soil standards, except for lead, for restricted access locations are based on Formula I using risk and exposure factors shown in Table II. Site-specific soil standards for lead at restricted access locations are 800, 1,600 and 3,200 mg/kg for soils less than 2, 2-10, and greater than 10 feet deep, respectively. In lieu of these default site-specific lead standards, site-specific standards for lead in soil less than 2 feet deep may be calculated using the most current version of EPA's Exposure Model for Assessing Risk Associated with Adult Exposures to Lead in Soil with multiple factors of 2 and 4 applied to this result for lead standards in soil 2-10 and greater than 10 feet deep, respectively. The use of a restricted access land use classification must be supported by an environmental easement that prevents a change in land use to residential and ensures that the access restrictions will be maintained.

Table II
Input Variables for Site-Specific Soil Standards for
Restricted Access Land-Use Designation

		Cancer	Soil Depth (ft.)		
Parameter	Units	Group	≤ 2	2 - 10	≥ 10
TR	unitless	A, B	5×10^{-6}	5×10^{-6}	5×10^{-6}
SF	$[(mg/kg)/day]^{-1}$	A, B	Chem.-spec.	Chem.-spec.	Chem.-spec.
THQ	unitless	C, D, E	1	1	1
RfD	(mg/kg)/day	C, D, E	Chem.-spec.	Chem.-spec.	Chem.-spec.
AT	years	A, B	70	70	70
		C, D, E	30	30	30
Abs	unitless	A - E	1	1	1
ER_c	mg/day	A - E	0	0	0
EF_c	days/yr	A - E	0	0	0
ED_c	years	A - E	0	0	0
BW_c	kg	A - E	15	15	15
ER_a	mg/day	A - E	50	500	500
EF_a	days/yr	A - E	250	200	20
ED_a	years	A - E	30	1	1
BW_a	kg	A - E	70	70	70
CF	kg/mg	A - E	10^{-6}	10^{-6}	10^{-6}

137.6(7) Site-specific surface water standards. The department will establish site-specific surface water standards at the request of the participant. The participant shall provide the department with information necessary to make this determination upon request from the department. Site-specific surface water standards will be generally equivalent to effluent limitations under a National Pollutant Discharge Elimination System (NPDES) permit pursuant to 567--Chapter 62. Mixing zones and allocation of contaminant loads in a surface water body will be considerations in attainment of in-stream water quality standards. If the site-specific surface water quality standards are met, best practical control technology currently available will not be imposed.

137.6(8) Site-specific air standards. If there are air quality concerns at a site, they will normally be addressed with site-specific standards until such time as ambient air quality or source-specific standards are adopted for hazardous air pollutants.

a. Explosivity. In no case shall contaminants from the enrolled site cause an explosivity level in a confined space of greater than 10 percent of the lower explosivity limit.

b. Background. In addition to the establishment of a background standard pursuant to rule 137.4(455H), a site-specific air standard may be set at twice the typical background level based on published information for a comparable setting, if approved by the department.

c. Health risk. Where applicable, the U.S. Department of Labor Occupational Safety and Health Administration (OSHA) 8-hour time-weighted-average limits for air contaminants pursuant to 29 CFR 1910.1000 may be utilized for site-specific standards with an appropriate site-specific adjustment to account for uncertainties. As a default, the adjustment shall consist of dividing the OSHA standard by a factor of 10. For locations where OSHA standards are not applicable, site-specific standards for air in a confined space shall be risk-based using the chemical-specific toxicity values of inhalation unit risk (UR) and inhalation reference concentration (RfC) determined in accordance with paragraph 137.5(3)"c" for Group A and B and Group C, D and E chemicals, respectively. Formulas II and III shall be used to calculate risk-based, site-specific air standards for Group A and B and Group C, D, and E chemicals, respectively, where C is the risk-based contaminant concentration in air.

(Formula II)
$C = AF \times TR \div UR$

(Formula III)
$C = AF \times RfC$

The UR and RfC toxicity values are based on a continuous exposure of 20 cubic meters per day by a 70 kg adult. The adjustment factor (AF) in Formulas II and III may be used to adjust for site-specific exposure conditions. A target cancer risk (TR) of 10^{-4} shall be used in a residential setting. If toxicity values are not available for a chemical, a value equal to 0.7 percent of the OSHA standard may be used as the site-specific standard for air in a confined space in a residential setting.

d. Institutional or technological controls. Institutional or technological controls may be used to prevent future exposure to contaminants in air in confined spaces and will be required to prevent residential use of the affected area when a nonresidential air standard is used.

137.6(9) Site-specific standards based on site-specific factors. Numerical site-specific standards (i.e., target levels) for groundwater or soil may be established using site-specific exposure factors in Formula I. Site-specific pumping rates greater than specified in paragraph 137.6(3)"d" herein may be used when approved by the department. Site-specific exposure factors must be approved by the department. For the department to approve any such site-specific factor there must be well-documented rationale for doing so and appropriate institutional or technological controls must be provided.

137.6(10) Site-specific standards or approaches not anticipated by this rule. Nothing in this rule precludes the use of site-specific standards derived in some way not anticipated by this rule, provided that the rationale is adequately presented and the approach is both approved by the department and provides a level of protection comparable to standards set forth under this rule.

567--137.7(455H) Institutional and technological controls.

137.7(1) Technological controls. The purpose of a technological control is to effectively sever a pathway by use of technologies such that an applicable receptor could not be exposed to hazardous substances above an applicable target risk level. Subject to limitations in this chapter, technological controls are an acceptable response action either alone or in combination with other remediation systems and institutional controls. The purpose of technological controls may be to control plume migration through use of containment technologies, barriers, or other methods, both as an interim or permanent response action or to permanently sever a pathway to a receptor. Technological controls may also be appropriate to treat or control contamination at the point of exposure. Any technological control proposed as a permanent response action option without meeting the reduction in contaminant concentrations objectives must establish that the pathway to a receptor will be permanently severed or controlled. The effectiveness of a technological control must be monitored under a department-approved plan. The department may require reasonable proof of financial assurance when necessary to ensure that a technological control remain effective.

137.7(2) Institutional controls. The purpose of an institutional control is to restrict access to or use of an affected area such that an existing or future receptor could not be exposed to hazardous substances addressed by the controls for as long as the target level is exceeded at applicable points of exposure and compliance. Single or multiple institutional controls may be used alone or in combination and may also be employed with technological controls and response action to effectively achieve, maintain and enforce an approved level of risk reduction and risk management. The following enumeration of types of institutional and technological controls is not a finding that each is per se an effective control. The effectiveness of any institutional or technological control or combination of controls must be evaluated on a case-by-case basis and in accordance with specified conditions in this chapter. Institutional and technological controls include:

a. A state or federal law or regulation which can be shown to effectively achieve, maintain and enforce the required land-use restrictions and controls.

b. An ordinance of any political subdivision of the state which can be shown to effectively achieve, maintain and enforce the required land-use restrictions and controls.

c. A contractual obligation recorded and executed in a manner satisfying Iowa Code chapter 558. Recorded notices and affidavits, including a no further action letter as provided in rule 137.11(455H), which do not create rights or obligations or restrict land

use but serve to put current and future property owners on notice of present or future conditions within the affected area.

d. A control which the participant demonstrates to the department reduces or manages the risk from a release through the period necessary to comply with the applicable standards, including but not limited to informational devices such as public notices, informational registries, notices to regulatory authorities and continuing site activities such as periodic inspections, equipment repair and maintenance, and soil and groundwater monitoring.

e. An environmental protection easement established in accordance with Iowa Code section 455H.206.

137.7(3) Environmental protection easements. An environmental protection easement is a statutorily authorized restriction on land use and shall be the preferred mechanism rather than other contractual, common law methods such as deed restrictions and restrictive covenants for implementing and enforcing future land-use restrictions. The department reserves the discretion to determine under what conditions an easement or other deed restriction instrument such as a restrictive covenant may be used. An environmental protection easement must be utilized whenever the approved land use restriction in and around an affected area must be limited to nonresidential uses. Environmental easements may be utilized to implement and enforce other institutional and technological controls, including but not limited to restrictions and regulation of certain construction activities, building location and design limitations, access to and use of groundwater, property access, restrictions on subdivision of property, maintenance and monitoring of technological controls and other response action equipment and activities, and other site inspection and reporting duties. The following minimum requirements must be established to obtain approval of an environmental protection easement:

a. The easement must be granted by the fee titleholder(s) and such other legal and equitable interests in the affected real estate as necessary to establish its validity and enforceability. The department may require persons with property interests other than the fee titleholder(s) to join in the grant or execute appropriate instruments evidencing consent to or subordination of their interests to the terms of the easement, or provide legal notice to such parties as necessary to ensure its validity, effectiveness and enforceability and all legal and equitable interests in the affected area. The participant must provide sufficient documentation, including but not limited to abstracts of title, title opinions, legal descriptions of the affected property and plat maps to enable the department to independently determine the easement will serve its intended purpose and is valid and enforceable.

b. The easement must be filed in the office of the county recorder in the county where the affected real estate is located and in any applicable central registry established by the department or other state, local or federal regulatory agency. After recording of the easement, each instrument transferring an interest in the affected real estate, including lease agreements, must include a specific reference to the recorded easement instrument and with sufficient description to put the transferee on notice of its terms. If a transfer instrument fails to include these references, the transferor may lose any of the benefits provided by these rules and Iowa Code Supplement chapter 455H.

c. The form and general terms of the easement must comply with the model forms developed by the department unless otherwise approved by the department. The terms of the easement instrument must include at a minimum the following:

(1) The easement must name the state of Iowa, acting through the department, as a grantee.

(2) The easement must accurately describe the activities being restricted or required.

(3) The easement must run with the land and bind the owner of the land and the owner's successors and assigns.

(4) The easement shall include an acknowledgment by the director of acceptance of the easement by the department.

d. Modification of environmental protection easements. An environmental protection easement can only be amended or terminated with approval by the director of the department and by filing an appropriate instrument, executed by the director, and filed with the county recorder.

137.7(4) Public notification. The department shall prepare a public notice prior to approval of any no further action classification which is conditioned upon use of institutional or technological control(s). The public notice will describe the results of the risk assessment conducted in the affected area, any proposed or completed response action, the vertical and horizontal extent and concentrations of existing soil and groundwater contamination in the affected area, and the actual and potential pathways of exposure the controls are intended to address. The notice will describe the purpose of the institutional and technological control(s) being proposed and the predicted period of coverage. The notice will provide for the opportunity of members of the public to review department files, make written comments and request a public hearing. The department may schedule a public hearing on the basis of requests from the public and when it determines the particular remedial options proposed for a site warrant public consideration, for example, when issues of whether and to what concentrations gross contamination should be allowed to remain within the affected area given the relative effectiveness of institutional controls and other community concerns and development plans.

a. The notice will be served by certified mail on all property owners which the actual or modeled data indicates are or may be affected by the present or future conditions addressed by the control. The notice will be published in a newspaper of general circulation most likely to reach persons in the immediate locality.

b. If the controls are intended to restrict surface or subsurface future land use, the notice shall be sent to each local regulatory body having jurisdiction and control over or a direct interest in regulation of these activities. These may include but are not limited to municipal or county zoning boards, municipal building authorities, public utilities and economic development agencies. If the controls are intended to restrict groundwater use, the notice shall be sent to the county or city board of health responsible for private well permitting.

c. Failure to provide notice to an interested party shall not constitute a basis for invalidating a subsequently approved no further action classification.

137.7(5) No further action certificates. Any no further action certificate shall contain a specific reference to any applicable institutional and technological control and shall meet the requirements in rule 137.11(455H). The reference must identify the location of any recorded instrument, contractual agreement or other documents applicable to the control, provide a brief description of the terms of the control and, where appropriate, site diagrams.

137.7(6) Enforcement of institutional and technological controls. Institutional and technological controls which have been incorporated into a no further action certificate pursuant to rule 137.10(455H), or have been approved prior to issuance of a no further action certificate

may be enforced in Iowa district court by the department, a political subdivision of this state, the participant or any successor in interest to the participant as provided in Iowa Code Supplement section 455H.206(4).

137.7(7) Failure of an institutional and technological control(s). The effectiveness of institutional and technological controls may be jeopardized for several reasons including situations where the technological controls are no longer effective in achieving their technical objectives, the validity of technological or institutional control is challenged due to a pending or final administrative or judicial action or legislative action changing its regulatory effect (e.g., change in an ordinance), or persons fail to comply with the terms of the institutional or technological control. The effect of the failure of a technological or institutional control to achieve its intended purpose is to remove the no further action classification and put all interested parties in the same position had the no further action classification not been made. When the department has reason to believe technological or institutional control(s) is jeopardized or determines that the control is no longer effective, the following policy and procedure shall apply:

a. The department shall make reasonable efforts to provide notice of the failure or non-compliance to the participant(s), protected parties, persons having legal standing to enforce the terms of the controls, other persons who may be legally responsible for contamination at the site and persons legally obligated to comply with the terms of the controls. The notice shall inform these parties of the consequences of failure of the controls and provide the opportunity for one or more of them to correct the deficiency by taking further response action or undertaking enforcement action to obtain compliance with the terms of the controls.

b. The participant(s) and other persons legally responsible for contamination at the site shall have primary responsibility to correct deficiencies or seek enforcement of the terms of controls, if they wish to maintain a no further action classification and any attendant statutory protections. The department may in its discretion seek enforcement of controls where persons fail to comply with the terms when it determines there is a strong likelihood of success, other participant(s) or legally responsible persons are unable or unwilling to undertake enforcement, and utilization of the controls remains consistent with these rules and site conditions currently in effect at the site. However, the department is not obligated to seek enforcement of the terms of any technological or institutional controls nor does the election not to undertake enforcement constitute a defense to further action by responsible parties or a basis for challenging the rescission of the no further action classification.

c. The department may also elect to require statutorily responsible parties to correct the deficiency as an alternative to rescinding the no further action classification.

d. Failure of a participant to timely undertake additional response action and response may result in termination of enrollment and loss of benefits under these rules and Iowa Code Supplement chapter 455H. Any person found to have intentionally violated an environmental protection easement or other institutional or technological control, whether included in a no further action letter or as part of an approved response action, may lose any of the benefits under these rules or Iowa Code Supplement chapter 455H.

137.7(8) Modification and termination of institutional and technological controls. A participant or successor in interest to a participant, or an owner of property subject to an institutional or technological control, may seek approval from the department for the removal, discontinuance, modification or termination of an institutional or technological control. The

persons must demonstrate that the control in its present form is no longer required to ensure compliance with applicable standards. The person seeking revision must undertake sufficient risk assessment and provide sufficient assessment data to establish that the applicable compliance standards can be met based on the proposed modification. The department may also determine based on a revised assessment that the applicable controls are no longer effective to meet compliance standards and may require other response action. The department shall issue an amendment to any previously issued no further action letter specifying the approved modification of the institutional or technological controls.

567--137.8(455H) Site assessment.

137.8(1) Purpose. The purpose of the site assessment is to define the nature and extent of contamination, along with identifying likely exposure pathways, with the aim of characterizing potential, current and future risks and making an informed decision concerning an appropriate response in the context of probable future land uses at the site and in the surrounding area. Assessment is to be conducted with the recognition that contaminant fate and transport may alter the current areal extent and depth of contamination. It is recognized that the scope of such an assessment may be appropriately varied dependent upon interrelated factors including the nature and severity of the contamination, the complexity of specific details of the site and its setting, and the nature of the chosen response, if known.

137.8(2) Site assessment plan. The participant is encouraged, but not required, to submit to the department, for review, a site assessment plan, prior to proceeding with the site assessment. Participants choosing to initiate site assessment without department review and approval of a work plan shall notify the department in writing of their intentions. Likewise, participants choosing to proceed to the risk evaluation/response action phase in accordance with rule 137.9 without seeking review of the site assessment report shall give prior notice to the department of their intentions. The notice shall include a schedule for implementation and completion, a description of the area to be assessed and the scope of the proposed assessment to be undertaken, any planned construction activities in the affected area and a proposed date for submission of the site assessment report for department review. If the notice includes an intention to go directly to the risk evaluation/response action phase, it shall also include a general description of the site assessment results, a schedule for submission of the risk evaluation/response action document and the reasons for not requesting department review and approval of the site assessment report.

The plan is intended to lay out the rationale to be followed in the conduct of the site assessment. The purpose for this optional stage is to provide an opportunity for the participant and the department to reach a consensus regarding the appropriate scope of the site assessment. The development of a consensus should serve to diminish the likelihood that the department will find the final site assessment to be deficient and, for the benefit of the participant, to avoid the expenditures and time associated with the collection of what may ultimately prove to be unnecessary data.

In order to accomplish this, it is suggested that the plan should address relevant, known characteristics related to the site and its history as well as plans for addressing pertinent details spelled out in the subsequent sections on the site assessment and the site assessment report.

Departmental review may result in suggestions from the department regarding perceived shortcomings or proposed activities which are deemed to be unnecessary.

The participant may find it desirable to conduct some preliminary investigation in order to develop a site assessment plan.

137.8(3) Site assessment details. In order to meet the stated purpose of the site assessment, it will be necessary to characterize numerous attributes related to the enrolled site and its setting. The following objectives are intended to provide a framework in which to accomplish this purpose. It is recognized that these objectives may exceed the appropriate scope of some site assessments and that there may be situations in which it may be necessary to define additional objectives. Any such deviation would preferably be addressed in a site assessment plan. In general, an acceptable site assessment should address the following items.

a. Identify and address the medium or media of concern associated with the contamination situation for which the site is enrolled. The regulatory classification or jurisdiction of contaminants shall be indicated if applicable and, if known, e.g., the compound is regulated under the Resource Conservation and Recovery Act (RCRA), Toxic Substances Control Act (TSCA), or Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

b. Characterize the nature, extent, and degree of contamination in both horizontal and vertical dimensions. This should involve appropriate sample numbers and locations within the contaminated area and beyond the area contaminated in excess of the background or statewide standard. Analyses should be conducted for the contaminants of concern, breakdown products, and other contaminants likely to be present at significant levels. The department may also require analyses for additional contaminants which are not the focus of enrollment in the program, but which may be of special concern. Special concerns might include waste handling or treatment problems posed by the additional contaminants, or unacceptable risks remaining unaddressed within the affected area, due to the presence of the additional contaminants. In the case of groundwater, attention should also be given to the possibility of contaminant accumulation in strata overlying confining layers and to the possible presence of non-aqueous phase liquids (NAPL). In the case of groundwater, more than one round of sampling shall be incorporated, appropriately separated in time. In the case of soils, particular attention should be given to characterizing shallow soil contamination, from zero to six inches in depth.

c. Characterize the nature of the source of contamination or propose a conceptual model explaining the presence of the contamination of concern.

d. Characterize local contamination maxima or hot spots for the purposes of evaluation against relevant standards and to identify handling or treatment concerns that they may pose.

e. Characterize the stratigraphy. This should be done to a depth extending to the first significant confining layer below the deepest contamination. Descriptions should rely primarily on results gathered in the site assessment, but relevant reference materials or geologic logs from other sources may be incorporated as a supplement.

f. Characterize the hydrologic properties of the site and its vicinity to a distance appropriate to the fate, transport and exposure concerns associated with the site. This characterization should consider both horizontal and vertical components of groundwater movement as well as other influences on groundwater hydrology such as pumping wells, injection wells, surface water bodies, effects of seasonal or precipitation-driven variability, and possible aquifer interconnections, including those related to existing or abandoned wells. Water

level measurements, related to a common datum, screening of appropriate depth intervals, and determination of hydraulic conductivity will generally be considered as necessary.

g. Characterize physical and chemical properties of the site and its environs associated with contaminant fate and transport, e.g., percent organic matter, redox potential, soil bulk density, and transmissivity.

h. Characterize topographic and cultural features of the site and its immediate vicinity. Cultural features may include, but not be limited to, buildings, basements, paved areas, roadways, utilities, storage tanks and associated piping, piles, impoundments, wells, and waste disposal systems.

i. Evaluate concerns related to whether the contamination situation is dynamic or stable, if dynamic, address fate and transport and breakdown products appropriately.

j. Identify and characterize receptor or exposure concerns. This most clearly involves concerns for drinking water and exposures to contaminated soils, as suggested by the statewide standards, but additional concerns should be identified and addressed by the participant or the department, as the situation warrants, e.g., vapors to basements, threats to water supply lines, threats to surface waters, or environmental threats.

k. Characterize current and probable future uses of the site and its surroundings. If probable future uses differ significantly from current uses, then characterize them separately and conduct the assessment in a fashion which addresses concerns arising from the possible change in use.

137.8(4) Site assessment report. The site assessment report shall include the presentation of all information gathered relative to the foregoing description of the site assessment, arranged in appropriate sections of the report. It shall include a summary of preliminary information on which the site assessment is based, e.g., background and site history. The report shall discuss the sampling strategy and methods used in the assessment. The department encourages the use of innovative or screening techniques to expedite investigations and to control costs, provided that such techniques are approved by the department and are supported through verification by accepted scientific practices. The report shall also include a description of the quality assurance/quality control (QA/QC) protocols followed during the investigation. QA/QC protocols shall be consistent with accepted scientific practices, including those set forth in appropriate EPA or ASTM guidance or otherwise approved by the department.

The presentation should be organized so as to facilitate the assimilation of information by the reader. Maps to be presented, as appropriate, might include maps illustrating the location of the site in a larger geographical context; maps showing cultural features associated with the site and its environs; maps illustrating the contamination extent and concentration in three dimensions; maps illustrating the site hydrology in three dimensions; and maps illustrating receptors, potential receptors, and relevant pathways of exposure. Cross-sectional diagrams should be included to illustrate stratigraphy, geological boring information, and hydrologic and contaminant factors with depth. Tables and graphs should be designed for the purpose of summarizing data in a meaningful fashion, including information about successive rounds of sampling. Appendices should include well logs, copies of laboratory analytical reports, and raw data used to calculate parameters presented elsewhere in the report. Appended material shall be labeled in a fashion permitting the cross-referencing of appended materials and the body of the report.

137.8(5) Approval of site assessment report. The department suggests, but does not require, that the site assessment report be approved prior to proceeding with the subsequent risk evaluation/response action phase. Unless notice has already been given prior to initiation of the site assessment, participants choosing to proceed to the risk evaluation/response action phase without department review and approval of the site assessment report must notify the department in advance as provided in 137.8(2).

567--137.9(455H) Risk evaluation/response action.

137.9(1) Purpose. The purpose of risk evaluation/response action is to utilize information from the site assessment as a basis for:

a. Determining whether current exposures result in risks deemed to be excessive, based on evaluation against appropriate background, statewide, or site-specific standards.

b. Determining whether future exposures may result in risks deemed to be excessive, based on evaluation against appropriate background, statewide, or site-specific standards. This will likely include:

(1) Evaluation of potential changes in usage, e.g., installation of a new well, change in land use, or other activities, which result in unacceptable, potential exposures not evaluated as current exposures, and

(2) Evaluation of exposure concerns related to the movement of contamination such that potential exposures might arise which are not considered under current exposure assumptions, e.g., groundwater plume migration creating a potential for future contamination of existing wells or creating newly contaminated areas in which new well installation may result in unacceptable exposures.

c. Proposing an appropriate and acceptable response action or strategy to address the identified, unacceptable exposures or potential exposures.

d. Establishing the test criteria (to be applied in the following section) for determining final compliance with the selected standard. In some cases this may consist of proving that standards are currently met; in other cases it may result in an assessment of whether the response action succeeds in bringing about compliance with a selected standard.

The risk evaluation/response action is intended only for application to the specific contaminants and situations for which the site is enrolled.

137.9(2) Risk evaluation. The risk evaluation/response action document shall identify all locations or areas, and associated exposure pathways, where exposure currently exceeds a statewide standard or where a statewide standard may be exceeded in the future, due to either a change in exposure-related usage or contaminant migration. Current and future exposure pathways shall be evaluated and presented separately. This evaluation shall not be limited to exposure pathways for which the department has formulated risk-based values in rule 137.5(455H) (the statewide standard) or 137.6(455H) (the site-specific standard) but should include any pathway related to the situation for which the site is enrolled, for which a no further action certificate is sought, or for which an unacceptable risk may now or in the future exist, e.g., high concentrations of volatile compounds in proximity to a confined space, high concentrations of solvents in proximity to a water distribution line, or environmental concerns unrelated to human health.

In a case where a background standard is to be applied and there is no violation of a statewide standard, it will be necessary to identify only locations or areas where the background standard is exceeded.

In some instances it is anticipated that the risk evaluation may be appropriately abbreviated from the preceding description, based on the specific details of the contamination and the proposed response action. Participants are strongly urged to discuss the appropriate scope of their risk evaluation with the department.

137.9(3) Establishing cleanup standards. The risk evaluation/response action document shall identify the cleanup standards to be applied in accordance with rule 137.4(455H), 137.5(455H), or 137.6(455H) of this chapter, outlining respectively the background, statewide, or site-specific standards. These standards may be applied in any combination to address specific components of the contamination problem for which the site is enrolled. If cleanup standards other than those specifically formulated under the statewide standard (rule 137.5(455H)) are to be applied, then the rationale behind the determination of such standards shall be justified, in the document, to the department's satisfaction.

137.9(4) The use of models. The department recognizes that the use of numerical models will likely be necessary in order to evaluate potential future exposures or that models may be used to develop target levels.

a. Standard models. Standard models may be used to predict future contaminant concentrations at potential points of exposure to contaminants or at other locations used for determining compliance when such models are appropriate, as determined by the department. Applicable Tier 2 models approved for use in accordance with 567--Chapter 135 for underground storage tanks (USTs) and applicable Tier 2 models provided in American Society for Testing of Materials (ASTM) standards are acceptable standard models. Models which provide a two-dimensional representation of groundwater flow will not be considered to be appropriate when significant three-dimensional components to groundwater flow are anticipated. Default values for input parameters for ASTM and UST Tier 2 models, as provided in applicable ASTM standards and approved for use in accordance with 567--Chapter 135, may be utilized without approval by the department. The department will maintain a guidance document which includes a list of other chemical-specific default values for all chemicals having statewide standards. The use of other, site-specific input parameters is addressed under site-specific modeling in paragraph "b" below.

b. Site-specific models. Site-specific models may be used to predict future contaminant concentrations at potential points of exposure to contaminants or at other locations used for determining compliance when such models are appropriate, as determined by the department. Site-specific models may include standard models with site-specific input parameters or models utilizing more sophisticated analytical techniques. The department will utilize versions of A Modular Three-Dimension Finite-Difference Ground-Water Flow Model (MODFLOW) as developed by the United States Geological Survey in conjunction with A Modular Three-Dimensional Transport Model (MT3D) by S.S. Papadopulos & Associates, Inc. as a site-specific model for assessment of potential future exposures to contaminants in groundwater. MODFLOW and MT3D will be considered to be appropriate site-specific groundwater and contaminant transport models for any situation. Other site-specific groundwater and contaminant transport models may be utilized with the approval of the department. In general, a site-specific groundwater model shall have proven reliability and be able to simulate, as needed:

- A fixed contaminant source,
- Groundwater and contaminant flow in three dimensions,
- Groundwater and contaminant flow through as many distinct geologic layers as necessary for the site in question,
- Effects of pumping,
- Effects of groundwater recharge and discharge,
- Impacts of hydrologic boundaries,
- Contaminant advection, dispersion and chemical reactions, as appropriate for the site in question, and
- Other site-specific variables as appropriate.

Default values for input parameters approved for standard models will be approved for use in site-specific models. Otherwise, input parameters used in site-specific models are subject to the department's approval.

137.9(5) Response action. The risk evaluation/response action document shall include a proposal for a response action or strategy to achieve and maintain compliance with the selected standard(s). This may consist of activities designed to remove or treat contaminants, prevention of exposure to unacceptable levels of contamination through technological/institutional controls or monitoring, or it may consist of a combination thereof. If the response action involves the use of a standard which is less stringent than the statewide standard, it will generally be necessary to implement institutional controls to prevent the type of exposure on which the statewide standard is based. It is the intent of the department to permit the participant to identify and carry out those options by which this may be accomplished, insofar as the department deems the selected options to be reasonable, protective of human health and the environment, and consistent with provisions of the rule.

137.9(6) Free product and gross contamination. The response action or strategy for an enrolled site shall take into account a stated policy of the Act to encourage environmental cleanup. To this end, the department requires that contaminants present as free product and gross contamination shall not be addressed through the implementation of institutional or technological controls. For purposes of this rule, gross contamination will be considered to be contamination present at concentrations in excess of a standard by an amount sufficient to reasonably expect that institutional or technological controls will not be adequately protective of human health or the environment.

The department recognizes that treatment or removal of free product or gross contamination may not, in some cases, be feasible. In such cases the department may grant a variance to this portion of the rule. It will be the responsibility of the participant to make a sufficient case that such a variance is warranted.

137.9(7) Compliance verification strategy. The risk evaluation/response action document shall outline a strategy for determining whether the relevant standards are met by the site and will continue to be met in the future. In some cases this may consist of sampling and statistical tests to verify that the standard has already been met, while in other cases the sampling and statistics may be used to demonstrate that a response action has achieved its stated goals and the site is now in compliance with standards. Some response strategies may also call for longer term monitoring. In this latter case, standard-based values shall be identified which, if exceeded, would indicate a failure of the response action and necessitate the development and implementation of a new response action. The terms under which monitoring may cease should

also be proposed. The proposed strategy shall be consistent with rule 137.10(455H), dealing with demonstration of compliance, and shall indicate the standard to be applied and the point of compliance at which it is to be applied, consistent with rules 137.4(455H), 137.5(455H), and 137.6(455H) (the background, statewide, and site-specific standards, respectively).

137.9(8) Risk evaluation/response action document submission. A risk evaluation/response action document shall be submitted for review by the department. When considered in conjunction with the site assessment report, these documents shall present a complete picture of the site from its characterization, through the evaluation of risk, to the development of a strategy to address the situation. An effort shall be made to ensure that the reviewer, or other interested parties, can easily move back and forth through the documents to gain an understanding of the existing situation and proposed actions. The risk evaluation/response action document shall include a summary of findings regarding present risks and potential future risks; a pathway-specific identification of the standards to be applied, including the supporting rationale, if appropriate; a discussion of the proposed response actions, including remedial actions to be taken and institutional or technological controls to be implemented; and a discussion of the proposed verification strategy. Any modeling used for purposes of assessing future risk or establishing site-specific standards shall be presented in sufficient detail to permit evaluation of the results by the department. Any permits which will be necessary to implement the response action shall be identified to the department for inclusion in a consolidated standards permit.

137.9(9) Department review and approval. It is strongly recommended that the document be submitted for review and approval prior to proceeding with implementation of the response action. The final, department-approved document will be the basis for assessing subsequent activities at the site. Parties choosing to proceed with response actions without prior review and approval by the department proceed at their own risk and may not assume the response action implemented will result in a no further action certificate.

Parties choosing to implement a response action without prior review and approval by the department shall submit to the department a proposed risk evaluation/response action document accompanied by an explanation of the reason(s) for proceeding without prior approval. Documentation shall also include a schedule for implementation, a description of construction or other activities to be undertaken, and date for submission of the final report demonstrating compliance, as described in 137.10(455H).

567--137.10(455H) Demonstration of compliance.

137.10(1) Purpose. The purpose of the demonstration of compliance section is to provide a mechanism by which to verify that:

a. Appropriate and acceptable standards are complied with and that compliance can be reasonably expected to continue in the future;

b. Any and all remedial measures proposed under rule 137.9(455H) have achieved their purpose; and

c. Appropriate institutional and technological controls, or monitoring mechanisms, have been successfully put in place.

In some cases the demonstration of compliance may mark the final step, taken by the participant, prior to the issuance of a no further action certificate. In other cases it may mark the transition to the longer term closure activities associated with the site, such as monitoring,

maintenance of technological controls, and continuing enforcement of institutional controls. In this latter case, demonstration of compliance activities may or may not result in the issuance of a no further action certificate, depending on the approach proposed in the response action. In some cases it may be necessary to successfully complete a monitoring program (or to fulfill other agreed-upon obligations) prior to the issuance of the no further action certificate.

In all cases, sampling of environmental media shall comply with QA/QC requirements addressed elsewhere in this rule.

137.10(2) General requirements for demonstrating compliance with soil standards.

a. For the standard being applied, the demonstration of compliance shall be at the point of compliance or point of exposure as set forth in rule 137.4(455H), 137.5(455H), or 137.6(455H) relating to background standards, statewide standards, and site-specific standards, and described in a site-specific context pursuant to subrule 137.9(7), relating to risk evaluation/response action.

b. Minimum sample numbers for the demonstration of compliance with the background standard for soils (paragraph 137.10(4)"b") or with the statewide standard when applying subparagraph 137.10(5)"a"(1) shall be based on the volume of soil to which the selected standard is being applied as follows:

(1) For volumes less than or equal to 125 cubic yards, a minimum of 8 samples.

(2) For volumes greater than 125 cubic yards, but less than or equal to 3,000 cubic yards, a minimum of 12 samples.

(3) For each additional volume of less than or equal to 3,000 cubic yards, a minimum of 12 additional samples.

(4) Additional samples may be required based on site-specific conditions.

c. When applying the 95 percent upper confidence limit, according to EPA guidance, to demonstrate compliance with the statewide standard for soils (subparagraph 137.10(5)"a"(2)) or a site-specific standard for soils (subrule 137.10(6)), the minimum sample number shall be as specified in that guidance.

d. Sample locations for demonstration of compliance shall be selected in a systematic random fashion to be representative, both horizontally and vertically, of the volume of soil being evaluated for compliance.

e. Sampling for the purposes of demonstrating compliance shall be conducted after the completion of site assessment activities and after the implementation of applicable remedial measures.

137.10(3) General requirements for demonstrating compliance with groundwater standards.

a. For the standard being applied, the demonstration of compliance shall be at the point of compliance or point of exposure as set forth in rule 137.4(455H), 137.5(455H), or 137.6(455H), relating to background standards, statewide standards, and site-specific standards, and described in a site-specific context pursuant to subrule 137.9(7), relating to risk evaluation/response action.

b. Monitoring wells installed for the purpose of demonstrating compliance shall be of sufficient number and appropriate location to evaluate all hydrologic strata of concern, based on site-specific considerations, as identified pursuant to subrule 137.9(7), relating to risk evaluation/response action.

c. For statistical methods under subparagraph 137.10(5)"b"(1), compliance with the statewide groundwater standard shall be based on eight consecutive quarters of groundwater data.

As an alternative, the department may accept four consecutive quarterly sampling events or less with written approval from the department under the following conditions:

(1) There is adequate spatial monitoring of the plume upgradient which indicates a decreasing concentration trend toward the downgradient property boundary.

(2) Parameters affecting the fate and transport of regulated substances within the plume have been fully evaluated.

(3) Concentrations of regulated substances in the plume at the point of compliance monitoring wells along the downgradient property boundary are all less than or equal to the groundwater standard or the limit relating to the PQL, whichever is higher, in all samples collected during the quarters of monitoring.

(4) One of the following is met:

1. The age of the plume is sufficiently well known to permit a judgment to be made regarding its stability.

2. The remediation includes source removal or containment actions which would reduce chemical flux into the plume.

d. When applying the 95 percent upper confidence limit, according to EPA guidance, to demonstrate compliance with the statewide standard for groundwater (subparagraph 137.10(5)"b"(2)) or a site-specific standard for groundwater (subrule 137.10(6)), the minimum sample number shall be as specified in that guidance.

e. Sampling for the purposes of demonstrating compliance shall be conducted after the completion of site assessment activities and after the implementation of applicable remedial measures.

137.10(4) Demonstration of compliance with a background standard.

a. To apply a background standard the participant shall demonstrate to the department, in writing, that the apparent background contamination at the site is due to widespread or naturally occurring contamination and shall obtain the department's approval to use this subrule. Data collected for the purpose of determining the applicable background standard is subject to department approval, interpretation, and manipulation, if necessary for the purpose of establishing a meaningful background standard.

b. For soil, the minimum sample number to determine the background standard shall be 10 (unless a lesser number is approved by the department) and the number of samples from the affected area shall be based on volume as described in 137.10(2)"b." No sample collected from the affected area may exceed the sum of the background arithmetic mean and three times the sample standard deviation, as calculated based on the background sampling.

c. For groundwater, a minimum of 12 locations shall be sampled in the background reference area (unless a lesser number is approved by the department) and an equal number shall be collected from the affected area. In areas involving more than one hydrologic strata, more samples may be required. Sampling shall be conducted concurrently in the background reference area and the affected area. No sample collected from the affected area may exceed the sum of the background arithmetic mean and three times the sample standard deviation, as calculated based on the background sampling.

137.10(5) Demonstration of compliance with the statewide standard. The following requirements shall be met in order to demonstrate compliance with the statewide standard. Testing shall be performed individually for each contaminant being addressed and for which a no further action certificate is sought.

a. To demonstrate compliance with the statewide standard for soils in each affected area, in addition to (1) or (2) below, all other applicable requirements of this rule shall be met.

(1) Seventy-five percent of all soil samples, collected during a single event, shall be less than or equal to the statewide standard, with no individual sample exceeding 10 times the statewide standard.

(2) In accordance with EPA approved methods, the 95 percent upper confidence limit of the arithmetic mean of soil sample values from the affected area shall be at or below the statewide standard.

b. To demonstrate compliance with the statewide standard for groundwater in each compliance monitoring well, in addition to (1) or (2) as follows, all other applicable requirements of this rule shall be met.

(1) Seventy-five percent of all samples collected in each compliance monitoring well over time shall be less than or equal to the statewide standard, with no individual sample exceeding 10 times the statewide standard.

(2) In accordance with EPA approved methods, the 95 percent upper confidence limit of the arithmetic mean of samples collected from a compliance well over time shall be at or below the statewide standard.

137.10(6) Demonstration of compliance with a site-specific standard. To demonstrate compliance with a site-specific standard, the participant shall use the tests identified in 137.10(5)"a"(2) and 137.10(5)"b"(2), except that the 95 percent upper confidence limit of the arithmetic mean for samples from the medium of concern shall be at or below the site-specific standard

137.10(7) Final report. A final report shall be submitted which documents the accomplishment of all provisions set forth in the risk evaluation/response action document. This shall include, as applicable to the specific situation, discussions related to verification of compliance with selected standards; successful completion of approved remedial actions; implementation of necessary institutional or technological controls; and initiation of any required monitoring strategy. Sufficient details shall be included to permit the department to verify that the terms proposed in the response action have been met with regard to the statistical determination of compliance with standards.

137.10(8) Department review and approval. The final report is subject to review and approval by the department. Following review, the department will either approve the report or make a written response indicating the reason(s) why the report is unacceptable. Acceptance of the report may result in the issuance of a no further action certificate or it may mark a transition to the long-term closure activities associated with the site, as proposed in the response action. A decision that the report is unacceptable may be based upon an insufficiency of the report or it may be based on a judgment that the terms of the response action have not been met.

In cases where a participant has elected to proceed through this program without department interaction and without submitting site assessment (pursuant to 137.8(455H)) or risk evaluation/response action documents (pursuant to rule 137.9(455H)), the final report shall contain the substantive information related to those rules in addition to information required

under this rule. The intent is to create a document for departmental review and approval which clearly sets forth, in substance, the same process which would have been developed had the participant engaged in a stepwise approach including interaction with the department during the process.

567--137.11(455H) No further action classification.

137.11(1) An enrolled site shall be eligible to obtain a no further action classification, when the department determines the participant has met all compliance standards of this chapter applicable to the affected area and the hazardous substances actually identified and evaluated such that no further response action is required other than maintenance of institutional or technological controls or certain specified continuing site activities. Upon request of a participant or a protected party and compliance with applicable standards, the department will issue a no further action letter to each protected party requesting it.

A no further action classification may be conditioned upon the continued maintenance and effectiveness of any applicable institutional or technological control in accordance with rule 137.7(455H).

137.11(2) No further action certificate. A no further action letter shall be in a form recordable in the county real estate records as provided in Iowa Code chapter 558 and consistent with the model forms developed by the department. The no further action letter may be recorded as provided by law.

137.11(3) No further action certificates conditioned on institutional and technological controls. A no further action certificate conditioned upon the continuing effectiveness and maintenance of institutional and technological controls or other continuing requirements must be recorded with the consent of the fee title holder for each parcel of affected property subject to the controls and for parcels of property for which prevention of exposure is dependent upon the continuing effectiveness and maintenance of the controls. If a participant is not able to record the no further action letter on a parcel within the affected area due to objections of the fee title holder or other legal restraints, this alone shall not be a basis for denying or rescinding the no further action classification or the certificate or the legal protections attendant to the no further action classification. Any modification or termination of institutional and technological controls shall be noted in an amended no further action certificate and shall be recorded as to any property subject to an earlier recorded certificate or institutional control. If a no further action certificate is required to be recorded, the no further action classification is not effective until the document is recorded with the county recorder.

137.11(4) Scope of liability protection. Upon issuance of the no further action letter by the department, the liability protection provisions contained in Iowa Code Supplement chapter 455H, subchapter, 3 apply. The scope of the no further action classification and the scope of liability protection extends only to that area of affected property as defined by actual and modeled contaminant data and the specific environmental condition for which a regulatory standard has been met and approved by a no further action classification. The scope of protection corresponds to the scope of the site assessment conducted by the participant, the exposure pathways actually evaluated by the assessment report and reviewed by the department, and the hazardous substances identified in that assessment for which compliance with a department-approved standard has been achieved. Liability protection does not apply to releases, sources of contamination, hazardous substances or other environmental conditions not

expressly addressed in the participant's site assessment, response action or specifically referenced in the no further action certificate.

The no further action classification and certificate shall be void if the department demonstrates by clear, satisfactory, and convincing evidence that any approval under this chapter was obtained by fraud or material misrepresentation, knowing failure to disclose material information, or false certification to the department.

137.11(5) Reopener and reclassification conditions.

a. The department shall have grounds to reopen and rescind a no further action classification and consider reclassification of the affected area if specified conditions of the no further action classification and certificate are not maintained, or if institutional or technological controls fail to meet their intended purpose or are determined to be ineffective and unenforceable. If the conditions upon which the no further action classification was issued cannot be corrected or reinstated, the department may rescind the classification. The effect of termination is to put all parties in the same position as if the no further action letter had not been issued.

b. If a no further action certificate is issued without conditions or technological and institutional controls and conditions should arise which might require further corrective action, the department may require further response action by a participant or protected party only as provided in Iowa Code Supplement section 455H.301. The department may require further response action against a statutorily responsible party who is not a participant or a protected party. If the participant was a person having control over a hazardous substance, as defined in Iowa Code section 455B.381, at the time of the release, a no further action certificate may provide or the department may require further response action to protect against an imminent and substantial threat to public health, safety, and welfare. A protected party who was a person having control over a hazardous substance, as defined above, may be required by the department to conduct a further response action, where appropriate, to protect against an imminent and substantial threat to public health, safety, and welfare.

These rules are intended to implement Iowa Code Supplement chapter 455H.

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Larry J. Wilson, Director

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Date

(A copy of the Responsiveness Summary is on file in the department's Records Center)

Mr. Stokes explained details of the rules noting that one area might be interpreted as being contrary to the law. He expanded on that issue which pertained to protected groundwater sources. He stated that staff are asking approval of rules to be effective upon adoption because there are some folks waiting who would like to begin enrolling sites into the program to begin redeveloping pieces of property.

Motion was made by Dean McWilliams to approve Adopted and Filed Emergency--Chapter 137, Iowa Land Recycling Program and Response Action Standards. Seconded by Terrance Townsend. Motion carried unanimously.

FIVE YEAR STRATEGIC PLAN - OPERATOR CERTIFICATION PROGRAM

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Environmental Protection Commission is requested to give approval to hold three public hearings on the draft Five-Year Strategic Plan for Operator Certification Program at the October meeting. The Safe Drinking Water Act Amendments of 1996 required EPA to publish guidelines specifying minimum standards for certification of operators of public water supplies. Draft guidelines were issued in the *Federal Register* of March 27, 1998, and final guidelines are to be published by February 9, 1999. The Department will then have either two years to adopt and implement an operator certification program which meets the guidelines or lose 20 percent of federal grants for its Drinking Water State Revolving Fund. The current operator certification program meets many of the draft guidelines but program elements will need to be modified to meet new initiatives in the guidelines. The Five-Year Strategic Plan will provide the Department guidance in meeting the requirements and to further upgrade the program in other areas.

The draft plan was prepared under contract with the Department by the Iowa Section of the American Water Works Association and the Iowa Water Pollution Control Association. Development of the plan was accomplished through a committee comprised of members from these organizations and the Iowa Association of Municipal Utilities, Iowa State University, Iowa Rural Water Association and the Association of Boards of Certification. The plan has been reviewed by the major stakeholder groups, in addition to those identified above, include the following: Iowa League of Cities, Iowa Environmental Council, Iowa Association of Water Agencies, and Kirkwood Community College.

Environmental Protection Division staff has reviewed comments and recommended changes made by these groups and modified the plan accordingly. Three public hearings are proposed to receive further public input: One each in Fort Dodge, Cedar Rapids, and Des Moines. Following the three hearings, the plan will be finalized and submitted to the Commission for approval.

(A copy of the five year strategic plan is on file in the department's Records Center)

Mr. Stokes discussed details of the plan and the certification program.

Motion was made by Kathryn Murphy to approve the Five Year Strategic Plan - Operator Certification Program. Seconded by Terrance Townsend.

Discussion followed regarding the differences in how training credit is given by the department and by ABC.

Vote on the motion carried unanimously.

APPROVED AS PRESENTED

GENERAL DISCUSSION

Rita Venner noted that her blue rule book is overflowing and asked if additional binders could be provided to the Commission.

Mr. Stokes stated that staff will check on acquiring some new rule book covers.

Charlotte Mohr mentioned an article in "Waste Matters' regarding the curbside recycling project the Commission recently asked about.

Following a question whether to revisit Item #8, Chapter 65, Animal Feeding Operations Rules, Chairman Ehm stated that it would take a Motion to Reconsider to bring the issue back up. He commented that it is not very often that the Commission turns down a Notice of Intended Action and he expects the item to be on next month's agenda and action to be taken at that time. He stated that the Commission needs to be very careful when the department comes before them with reasonable rules, and the Commission declines to present them in a timely fashion when they are legislatively mandated, because the Commission represents all Iowans in that process. He added that he respects and understands where the Commission members are coming from but there is a need to be careful.

Rozanne King expressed concern with not having received the first copy of the rules until Thursday, and being gone until Friday, she did not have much time for review. She added that in receiving the revised draft today it did not give her a chance to digest it enough to make a decision on either side of the issue.

NEXT MEETING DATES

November 16, 1998
December 21, 1998
January 19, 1999 (Tuesday)

ADJOURNMENT

With no further business to come before the Environmental Protection Commission, Chairman Ehm adjourned the meeting at noon, Monday, October 19, 1998.

Larry J. Wilson, Director

William Ehm, Chair

Charlotte Mohr, Secretary

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